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PAPERS

RELATING TO THE

FOREIGN RELATIONS

OF

THE UNITED STATES,

Diplomatic papers

TRANSMITTED TO CONGRESS,

WITH THE ANNUAL MESSAGE OF THE PRESIDENT,

DECEMBER 4, 1882.

PRECEDED BY A

LIST OF PAPERS AND FOLLOWED BY AN INDEX OF PERSONS AND SUBJECTS.

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MESSAGE

OF

THE PRESIDENT OF THE UNITED STATES.

To the Senate and House of Representatives of the United States:

It is provided by the Constitution that the President shall from time to time give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient.

In reviewing the events of the year which has elapsed since the commencement of your sessions, I first call your attention to the gratifying condition of our foreign affairs. Our intercourse with other powers has continued to be of the most friendly character.

Such slight differences as have arisen during the year have been already settled or are likely to reach an early adjustment. The arrest of citizens of the United States in Ireland under recent laws which owe their origin to the disturbed condition of that country has led to a somewhat extended correspondence with the Government of Great Britain. A disposition to respect our rights has been practically manifested by the release of the arrested parties.

The claim of this nation in regard to the supervision and control of any inter-oceanic canal across the American Isthmus has continued to be the subject of conference.

It is likely that time will be more powerful than discussion in removing the divergence between the two nations whose friendship is so closely cemented by the intimacy of their relations and the community of their interests.

Our long-established friendliness with Russia has remained unshaken. It has prompted me to proffer the earnest counsels of this government that measures be adopted for suppressing the proscription which the Hebrew race in that country has lately suffered. It has not transpired that any American citizen has been subjected to arrest or injury, but our courteous remonstrance has nevertheless been courteously received. There is reason to believe that the time is not far distant when Russia will be able to secure toleration to all faiths within her borders.

At an international convention held at Paris in 1880, and attended by representatives of the United States, an agreement was reached in respect to the protection of trade-marks, patented articles, and the rights of manufacturing firms and corporations. The formulating into

treaties of the recommendations thus adopted is receiving the attention which it merits.

The protection of submarine cables is a subject now under consideration by an international conference at Paris. Believing that it is clearly the true policy of this government to favor the neutralization of this means of intercourse, I requested our minister to France to attend the convention as a delegate. I also designated two of our eminent scientists to attend as our representatives at the meeting of an international committee at Paris, for considering the adoption of a common unit to measure electric force.

In view of the frequent occurrence of conferences for the consideration of important matters of common interest to civilized nations, I respectfully suggest that the Executive be invested by Congress with discretionary powers to send delegates to such conventions, and that provision be made to defray the expenses incident thereto.

The difference between the United States and Spain as to the effect of a judgment and certificate of naturalization has not yet been adjusted; but it is hoped and believed that negotiations now in progress will result in the establishment of the position which seems to this government so reasonable and just.

I have already called the attention of Congress to the fact that in the ports of Spain and its colonies onerous fines have lately been imposed upon vessels of the United States for trivial technical offenses against local regulations. Efforts for the abatement of these exactions have thus far proved unsuccessful.

I regret to inform you also that the fees demanded by Spanish consuls in American ports are in some cases so large, when compared with the value of the cargo, as to amount in effect to a considerable export duty, and that our remonstrances in this regard have not as yet received the attention which they seem to deserve.

The German Government has invited the United States to participate in an international exhibition of domestic cattle, to be held at Hamburg in July, 1883. If this country is to be represented, it is important that, in the early days of this session, Congress should make a suitable appropriation for that purpose.

The death of Mr. Marsh, our late minister to Italy, has evoked from that government expressions of profound respect for his exalted character and for his honorable career in the diplomatic service of his country. The Italian Government has raised a question as to the propriety of recognizing in his dual capacity the representative of this country recently accredited both as secretary of legation and as consul-general at Rome. He has been received as secretary, but his exequatur as consul-general has thus far been withheld.

The extradition convention with Belgium, which has been in operation since 1874, has been lately supplanted by another. The Senate has signified its approval, and ratifications have been duly exchanged

between the contracting countries. To the list of extraditable crimes has been added that of the assassination or attempted assassination of the chief of the state.

Negotiations have been opened with Switzerland looking to a settlement by treaty of the question whether its citizens can renounce their allegiance and become citizens of the United States without obtaining the consent of the Swiss Government.

I am glad to inform you that the immigration of paupers and criminals from certain of the cantons of Switzerland has substantially ceased and is no longer sanctioned by the authorities.

The consideration of this subject prompts the suggestion that the act of August 3, 1882, which has for its object the return of foreign convicts to their own country, should be so modified as not to be open to the interpretation that it affects the extradition of criminals on preferred charges of crime.

The Ottoman Porte has not yet assented to the interpretation which this government has put upon the treaty of 1830 relative to its jurisdictional rights in Turkey. It may well be, however, that this difference will be adjusted by a general revision of the system of jurisdiction of the United States in the countries of the East—a subject to which your attention has been already called by the Secretary of State.

In the interest of justice towards China and Japan, I trust that the question of the return of the indemnity fund to the governments of those countries will reach, at the present session, the satisfactory solution which I have already recommended, and which has recently been foreshadowed by Congressional discussion.

The treaty lately concluded with Corea awaits the action of the Senate.

During the late disturbance in Egypt the timely presence of American vessels served as a protection to the persons and property of many of our own citizens and of citizens of other countries, whose governments have expressed their thanks for this assistance.

The recent legislation restricting immigration of laborers from China has given rise to the question whether Chinese proceeding to or from another country may lawfully pass through our own.

Construing the act of May 6, 1882, in connection with the treaty of November 7, 1880, the restriction would seem to be limited to Chinese immigrants coming to the United States as laborers, and would not forbid a mere transit across our territory. I ask the attention of Congress to the subject for such action, if any, as may be deemed advisable.

This government has recently had occasion to manifest its interest in the Republic of Liberia by seeking to aid the amicable settlement of the boundary dispute now pending between that republic and the British possession of Sierra Leone.

The reciprocity treaty with Hawaii will become terminable after September 9, 1883, on twelve months' notice by either party. While certain

provisions of that compact may have proved onerous, its existence has fostered commercial relations which it is important to preserve. I suggest, therefore, that early consideration be given to such modifications of the treaty as seem to be demanded by the interests of our people.

In view of our increasing trade with both Hayti and Santo Domingo I advise that provision be made for diplomatic intercourse with the latter, by enlarging the scope of the mission at Port au Prince.

I regret that certain claims of American citizens against the Government of Hayti have thus far been urged unavailingly.

A recent agreement with Mexico provides for the crossing of the frontier by the armed forces of either country in pursuit of hostile Indians. In my message of last year I called attention to the prevalent lawlessness upon the borders and to the necessity of legislation for its suppression. I again invite the attention of Congress to the subject.

A partial relief from these mischiefs has been sought in a convention, which now awaits the approval of the Senate, as does also another touching the establishment of the international boundary between the United States and Mexico. If the latter is ratified, the action of Congress will be required for establishing suitable commissions of survey. The boundary dispute between Mexico and Guatemala, which led this government to proffer its friendly counsels to both parties, has been amicably settled.

No change has occurred in our relations with Venezuela. I again invoke your action in the matter of the pending awards against that republic to which reference was made by a special message from the Executive at your last session.

An invitation has been received from the Government of Venezuela to send representatives in July, 1883, to Caracas, for participating in the centennial celebration of the birth of Bolivar, the founder of South American independence. In connection with this event it is designed to commence the erection at Caracas of a statue of Washington, and to conduct an industrial exhibition which will be open to American products. I recommend that the United States be represented, and that suitable provision be made therefor.

The elevation of the grade of our mission in Central America to the plenipotentiary rank, which was authorized by Congress at its late session, has been since effected.

The war between Peru and Bolivia on the one side and Chili on the other began more than three years ago. On the occupation by Chili in 1880 of all the littoral territory of Bolivia, negotiations for peace were conducted under the direction of the United States. The allies refused to concede any territory, but Chili has since become master of the whole coast of both countries and of the capital of Peru. A year since, as you have already been advised by correspondence transmitted to you in January last, this government sent a special mission to the belligerent powers to express the hope that Chili would be disposed to

accept a money indemnity for the expenses of the war and to relinquish her demand for a portion of the territory of her antagonist.

This recommendation, which Chili declined to follow, this government did not assume to enforce; nor can it be enforced without resort to measures which would be in keeping neither with the temper of our people nor with the spirit of our institutions.

The power of Peru no longer extends over its whole territory, and, in the event of our interference to dictate peace, would need to be supplemented by the armies and navies of the United States. Such interference would almost inevitably lead to the establishment of a protectorate—a result utterly at odds with our past policy, injurious to our present interests, and full of embarrassments for the future.

For effecting the termination of hostilities upon terms at once just to the victorious nation and generous to its adversaries, this government has spared no efforts save such as might involve the complications which I have indicated.

It is greatly to be deplored that Chili seems resolved to exact such rigorous conditions of peace and indisposed to submit to arbitration the terms of an amicable settlement. No peace is likely to be lasting that is not sufficiently equitable and just to command the approval of other nations.

About a year since, invitations were extended to the nations of this continent to send representatives to a peace congress to assemble at Washington in November, 1882. The time of meeting was fixed at a period then remote, in the hope, as the invitation itself declared, that in the mean time the disturbances between the South American republics would be adjusted. As that expectation seemed unlikely to be realized, I asked in April last for an expression of opinion from the two houses of Congress as to the advisability of holding the proposed convention at the time appointed. This action was prompted in part by doubts which mature reflection had suggested whether the diplomatic usage and traditions of the government did not make it fitting that the Executive should consult the representatives of the people before pursuing a line of policy somewhat novel in its character, and far-reaching in its possible consequences. In view of the fact that no action was taken by Congress in the premises and that no provision had been made for necessary expenses, I subsequently decided to postpone the convocation, and so notified the several governments which had been invited to attend.

I am unwilling to dismiss this subject without assuring you of my support of any measures the wisdom of Congress may devise for the promotion of peace on this continent and throughout the world, and I trust that the time is nigh when, with the universal assent of civilized peoples, all international differences shall be determined without resort to arms by the benignant processes of arbitration.

Changes have occurred in the diplomatic representation of several foreign powers during the past year. New ministers from the Argen-

tine Republic, Austria-Hungary, Brazil, Chili, China, France, Japan, Mexico, the Netherlands, and Russia have presented their credentials. The missions of Denmark and Venezuela at this capital have been raised in grade. Switzerland has created a plenipotentiary mission to this government, and an embassy from Madagascar and a minister from Siam will shortly arrive.

Our diplomatic intercourse has been enlarged by the establishment of relations with the new Kingdom of Servia, by the creation of a mission to Siam, and by the restoration of the mission to Greece. The Shah of Persia has expressed his gratification that a chargé d'affaires will shortly be sent to that country, where the rights of our citizens have been hitherto courteously guarded by the representatives of Great Britain.

I renew my recommendation of such legislation as will place the United States in harmony with other maritime powers with respect to the international rules for the prevention of collisions at sea.

In conformity with your joint resolution of the 3d of August last, I have directed the Secretary of State to address foreign governments in respect to a proposed conference for considering the subject of the universal adoption of a common prime meridian to be used in the reckoning of longitude and in the regulation of time throughout the civilized world. Their replies will, in due time, be laid before you.

An agreement was reached at Paris in 1875 between the principal powers for the interchange of official publications through the medium of their respective foreign departments.

The admirable system which has been built up by the enterprise of the Smithsonian Institution affords a practical basis for our co-operation in this scheme, and an arrangement has been effected by which that institution will perform the necessary labor, under the direction of the Department of State. A reasonable compensation therefor should be provided by law.

A clause in the act making appropriations for the diplomatic and consular service contemplates the reorganization of both branches of such service on a salaried basis, leaving fees to inure to the benefit of the Treasury. I cordially favor such a project, as likely to correct abuses in the present system. The Secretary of State will present to you at an early day a plan for such reorganization.

A full and interesting exhibit of the operations of the Treasury Department is afforded by the report of the Secretary.

It appears that the ordinary revenues from all sources for the fiscal year ended June 30, 1882, were as follows:

From customs	$220,410,730 25
From internal revenue	146,497,595 45
From sales of public lands	4,753,140 37
From tax on circulation and deposits of national banks	8,956,794 45
From repayment of interest by Pacific Railway Companies	840,554 37

From sinking fund for Pacific Railway Companies	796,271 42
From customs fees, fines, penalties, &c	$1,343,348 00
From fees—consular, letters patent, and lands	2,638,990 97
From proceeds of sales of government property	314,959 85
From profits on coinage, bullion deposits, and assays	4,116,693 73
From Indian trust funds	5,705,243 22
From deposits by individuals for surveying public lands	2,052,306 36
From revenues of the District of Columbia	1,715,176 41
From miscellaneous sources	3,383,445 43
Total ordinary receipts	403,525,250 28

The ordinary expenditures for the same period were—

For civil expenses	$18,042,386 42
For foreign intercourse	1,307,583 19
For Indians	9,736,747 40
For pensions	61,345,193 95
For the military establishment, including river and harbor improvements, and arsenals	43,570,494 19
For the naval establishment, including vessels, machinery, and improvements at navy-yards	15,032,046 26
For miscellaneous expenditures, including public buildings, light-houses, and collecting the revenue	34,539,237 50
For expenditures on account of the District of Columbia	3,330,543 87
For interest on the public debt	71,077,206 79
Total ordinary expenditures	257,981,439 57
Leaving a surplus revenue of	145,543,810 71
Which, with an amount drawn from the cash balance in the Treasury of	20,737,694 84
Making	166,281,505 55

Was applied to the redemption—

Of bonds for the sinking fund	60,079,150 00
Of fractional currency for the sinking fund	58,705 55
Of loan of July and August, 1861	62,572,050 00
Of loan of March, 1863	4,472,900 00
Of funded loan of 1881	37,194,450 00
Of loan of 1858	1,000 00
Of loan of February, 1861	303,000 00
Of five-twenties of 1862	2,100 00
Of five-twenties of 1864	7,400 00
Of five-twenties of 1865	6,500 00
Of ten-forties of 1864	254,550 00

Of consols of 1865	$86,450 00
Of consols of 1867	408,250 00
Of consols of 1868	141,400 00
Of Oregon war debt	675,250 00
Of old demand, compound-interest, and other notes	18,350 00
	166,281,505 55

The foreign commerce of the United States during the last fiscal year, including imports and exports of merchandise and specie, was as follows:

Exports:	Merchandise	$750,542,257
	Specie	49,417,479
	Total	799,959,736
Imports:	Merchandise	724,639,574
	Specie	42,472,390
	Total	767,111,964
Excess of exports over imports of merchandise		25,902,683

This excess is less than it has been before for any of the previous six years, as appears by the following table:

Year ended June 30—	Excess of exports over imports of merchandise.
1876	$79,643,481
1877	151,152,094
1878	257,814,234
1879	264,661,666
1880	167,683,912
1881	259,712,718
1882	25,902,683

During the year there have been organized 171 national banks, and of those institutions there are now in operation 2,269, a larger number than ever before. The value of their notes in active circulation on July 1, 1882, was $324,656,458.

I commend to your attention the Secretary's views in respect to the likelihood of a serious contraction of this circulation, and to the modes by which that result may, in his judgment, be averted.

In respect to the coinage of silver dollars and the retirement of silver certificates I have seen nothing to alter but much to confirm the sentiments to which I gave expression last year.

A comparison between the respective amounts of silver dollar circulation on November 1, 1881, and on November 1, 1882, shows a slight

increase of a million and a half of dollars. But during the interval there had been in the whole number coined an increase of twenty-six millions. Of the one hundred and twenty-eight millions thus far minted, little more than thirty-five millions are in circulation. The mass of accumulated coin has grown so great that the vault room at present available for storage is scarcely sufficient to contain it. It is not apparent why it is desirable to continue this coinage, now so enormously in excess of the public demand.

As to the silver certificates, in addition to the grounds which seemed last year to justify their retirement may be mentioned the effect which is likely to ensue from the supply of gold certificates, for whose issuance Congress recently made provision, and which are now in active circulation.

You cannot fail to note with interest the discussion by the Secretary as to the necessity of providing by legislation some mode of freeing the Treasury of an excess of assets, in the event that Congress fails to reach an early agreement for the reduction of taxation.

I heartily approve the Secretary's recommendation of immediate and extensive reductions in the annual revenues of the government.

It will be remembered that I urged upon the attention of Congress at its last session the importance of relieving the industry and enterprise of the country from the pressure of unnecessary taxation. It is one of the tritest maxims of political economy that all taxes are burdensome, however wisely and prudently imposed. And though there have always been among our people wide differences of sentiment as to the best methods of raising the national revenues, and, indeed, as to the principles upon which taxation should be based, there has been substantial accord in the doctrine that only such taxes ought to be levied as are necessary for a wise and economical administration of the government. Of late the public revenues have far exceeded that limit, and unless checked by appropriate legislation such excess will continue to increase from year to year. For the fiscal year ended June 30, 1881, the surplus revenue amounted to one hundred millions of dollars; for the fiscal year ended on the 30th of June last the surplus was more than one hundred and forty-five millions.

The report of the Secretary shows what disposition has been made of these moneys. They have not only answered the requirements of the sinking fund, but have afforded a large balance applicable to other reductions of the public debt.

But I renew the expression of my conviction that such rapid extinguishment of the national indebtedness as is now taking place is by no means a cause for congratulation; it is a cause rather for serious apprehension.

If it continues, it must speedily be followed by one of the evil results so clearly set forth in the report of the Secretary.

Either the surplus must lie idle in the Treasury, or the government

will be forced to buy, at market rates, its bonds not then redeemable, and which, under such circumstances, cannot fail to command an enormous premium, or the swollen revenues will be devoted to extravagant expenditure, which, as experience has taught, is ever the bane of an overflowing treasury.

It was made apparent in the course of the animated discussions which this question aroused at the last session of Congress that the policy of diminishing the revenue by reducing taxation commanded the general approval of the members of both houses.

I regret that because of conflicting views as to the best methods by which that policy should be made operative none of its benefits have as yet been reaped.

In fulfillment of what I deem my constitutional duty, but with little hope that I can make valuable contribution to this vexed question, I shall proceed to intimate briefly my own views in relation to it.

Upon the showing of our financial condition at the close of the last fiscal year, I felt justified in recommending to Congress the abolition of all internal-revenue taxes except those upon tobacco in its various forms and upon distilled spirits and fermented liquors; and except also the special tax upon the manufacturers of and dealers in such articles.

I venture now to suggest that, unless it shall be ascertained that the probable expenditures of the government for the coming year have been underestimated, all internal taxes, save those which relate to distilled spirits, can be prudently abrogated.

Such a course, if accompanied by a simplification of the machinery of collection, which would then be easy of accomplishment, might reasonably be expected to result in diminishing the cost of such collection by at least two millions and a half of dollars, and in the retirement from office of from fifteen hundred to two thousand persons.

The system of excise duties has never commended itself to the favor of the American people, and has never been resorted to except for supplying deficiencies in the Treasury when, by reason of special exigencies, the duties on imports have proved inadequate for the needs of the government. The sentiment of the country doubtless demands that the present excise tax shall be abolished as soon as such a course can be safely pursued.

It seems to me, however, that, for various reasons, so sweeping a measure as the total abolition of internal taxes would for the present be an unwise step.

Two of these reasons are deserving of special mention:

First, it is by no means clear that even if the existing system of duties on imports is continued without modification, those duties alone will yield sufficient revenue for all the needs of the government. It is estimated that one hundred millions of dollars will be required for pensions during the coming year, and it may well be doubted whether the maximum annual demand for that object has yet been reached.

Uncertainty upon this question would alone justify, in my judgment, the retention for the present of that portion of the system of internal revenue which is least objectionable to the people.

Second, a total abolition of excise taxes would almost inevitably prove a serious if not an insurmountable obstacle to a thorough revision of the tariff and to any considerable reduction in import duties.

The present tariff system is in many respects unjust. It makes unequal distributions both of its burdens and its benefits. This fact was practically recognized by a majority of each house of Congress in the passage of the act creating the Tariff Commission. The report of that commission will be placed before you at the beginning of this session, and will, I trust, afford you such information as to the condition and prospects of the various commercial, agricultural, manufacturing, mining, and other interests of the country and contain such suggestions for statutory revision as will practically aid your action upon this important subject.

The revenue from customs for the fiscal year ended June 30, 1879, amounted to $137,000,000.

It has in the three succeeding years reached, first, $186,000,000; then, $198,000,000; and finally, as has been already stated, $220,000,000.

The income from this source for the fiscal year which will end on June 30, 1883, will doubtless be considerably in excess of the sum last mentioned.

If the tax on domestic spirits is to be retained, it is plain therefore that large reductions from the customs revenue are entirely feasible. While recommending this reduction I am far from advising the abandonment of the policy of so discriminating in the adjustment of details as to afford aid and protection to domestic labor. But the present system should be so revised as to equalize the public burden among all classes and occupations, and bring it into closer harmony with the present needs of industry.

Without entering into minute detail, which, under present circumstances, is quite unnecessary, I recommend an enlargement of the free list so as to include within it the numerous articles which yield inconsiderable revenue, a simplification of the complex and inconsistent schedule of duties upon certain manufactures, particularly those of cotton, iron, and steel, and a substantial reduction of the duties upon those articles, and upon sugar, molasses, silk, wool, and woolen goods.

If a general revision of the tariff shall be found to be impracticable at this session, I express the hope that at least some of the more conspicuous inequalities of the present law may be corrected before your final adjournment. One of them is specially referred to by the Secretary. In view of a recent decision of the Supreme Court, the necessity of amending the law by which the Dutch standard of color is adopted as the test of the saccharine strength of sugars is too obvious to require comment.

From the report of the Secretary of War it appears that the only outbreaks of Indians during the past year occurred in Arizona and in the southwestern part of New Mexico. They were promptly quelled, and the quiet which has prevailed in all other parts of the country has permitted such an addition to be made to the military force in the region endangered by the Apaches that there is little reason to apprehend trouble in the future.

Those parts of the Secretary's report which relate to our sea-coast defenses and their armament suggest the gravest reflections. Our existing fortifications are notoriously inadequate to the defense of the great harbors and cities for whose protection they were built.

The question of providing an armament suited to our present necessities has been the subject of consideration by a board, whose report was transmitted to Congress at the last session. Pending the consideration of that report, the War Department has taken no steps for the manufacture or conversion of any heavy cannon, but the Secretary expresses the hope that authority and means to begin that important work will be soon provided. I invite the attention of Congress to the propriety of making more adequate provision for arming and equipping the militia than is afforded by the act of 1808, which is still upon the statute-book. The matter has already been the subject of discussion in the Senate, and a bill which seeks to supply the deficiencies of existing laws is now upon its calendar.

The Secretary of War calls attention to an embarrassment growing out of the recent act of Congress making the retirement of officers of the Army compulsory at the age of sixty-four. The act of 1878 is still in force, which limits to four hundred the number of those who can be retired for disability or upon their own application. The two acts, when construed together, seem to forbid the relieving, even for absolute incapacity, of officers who do not fall within the purview of the later statute, save at such times as there chance to be less than four hundred names on the retired list. There are now four hundred and twenty. It is not likely that Congress intended this result, and I concur with the Secretary, that the law ought to be amended.

The grounds that impelled me to withhold my signature from the bill entitled "An act making appropriations for the construction, repair, and preservation of certain works on rivers and harbors," which became a law near the close of your last session, prompt me to express the hope that no similar measure will be deemed necessary during the present session of Congress. Indeed, such a measure would now be open to a serious objection in addition to that which was lately urged upon your attention. I am informed by the Secretary of War that the greater portion of the sum appropriated for the various items specified in that act remains unexpended.

Of the new works which it authorized, expenses have been incurred

upon two only, for which the total appropriation was $210,000. The present available balance is disclosed by the following table:

Amount of appropriation by act of August 2, 1882	$18,738,875
Amount of appropriation by act of June 19, 1882	10,000
Amount of appropriation for payments to J. B. Eads	304,000
Unexpended balance of former appropriations	4,738,263
	23,791,138
Less amount drawn from Treasury between July 1, 1882, and November 30, 1882	6,056,194
	17,734,944

It is apparent by this exhibit that, so far as concerns most of the items to which the act of August 2, 1882, relates, there can be no need of further appropriations until after the close of the present session. If, however, any action should seem to be necessary in respect to particular objects, it will be entirely feasible to provide for those objects by appropriate legislation. It is possible, for example, that a delay until the assembling of the next Congress to make additional provision for the Mississippi River improvements might be attended with serious consequences. If such should appear to be the case, a just bill relating to that subject would command my approval.

This leads me to offer a suggestion which I trust will commend itself to the wisdom of Congress. Is it not advisable that grants of considerable sums of money for diverse and independent schemes of internal improvement should be made the subjects of separate and distinct legislative enactments? It will scarcely be gainsaid, even by those who favor the most liberal expenditures for such purposes as are sought to be accomplished by what is commonly called the river and harbor bill, that the practice of grouping in such a bill appropriations for a great diversity of objects, widely separated, either in their nature or in the locality with which they are concerned, or in both, is one which is much to be deprecated unless it is irremediable. It inevitably tends to secure the success of the bill as a whole, though many of the items, if separately considered, could scarcely fail of rejection. By the adoption of the course I have recommended, every member of Congress, whenever opportunity should arise for giving his influence and vote for meritorious appropriations, would be enabled so to do without being called upon to sanction others undeserving his approval. So also would the Executive be afforded thereby full opportunity to exercise his constitutional prerogative of opposing whatever appropriations seemed to him objectionable, without imperiling the success of others which commended themselves to his judgment.

It may be urged in opposition to these suggestions that the number of works of internal improvement which are justly entitled to govern-

mental aid is so great as to render impracticable separate appropriation bills therefor, or even for such comparatively limited number as make disposition of large sums of money. This objection may be well founded, and, whether it be or not, the advantages which would be likely to ensue from the adoption of the course I have recommended may perhaps be more effectually attained by another, which I respectfully submit to Congress as an alternative proposition.

It is provided by the constitutions of fourteen of our States that the Executive may disapprove any item or items of a bill appropriating money; whereupon the part of the bill approved shall be law, and the part disapproved shall fail to become law, unless repassed according to the provisions prescribed for the passage of bills over the veto of the Executive. The States wherein some such provision as the foregoing is a part of the fundamental law are, Alabama, California, Colorado, Florida, Georgia, Louisiana, Minnesota, Missouri, Nebraska, New Jersey, New York, Pennsylvania, Texas, and West Virginia. I commend to your careful consideration the question whether an amendment of the Federal Constitution in the particular indicated would not afford the best remedy for what is often a grave embarrassment both to members of Congress and to the Executive, and is sometimes a serious public mischief.

The report of the Secretary of the Navy states the movements of the various squadrons during the year, in home and foreign waters, where our officers and seamen, with such ships as we possess, have continued to illustrate the high character and excellent discipline of the naval organization.

On the 21st of December, 1881, information was received that the exploring steamer Jeannette had been crushed and abandoned in the Arctic Ocean. The officers and crew, after a journey over the ice, embarked in three boats for the coast of Siberia. One of the parties, under the command of Chief Engineer George W. Melville, reached the land, and, falling in with the natives, was saved. Another, under Lieutenant-Commander De Long, landed in a barren region near the mouth of the Lena River. After six weeks had elapsed all but two of the number had died from fatigue and starvation. No tidings have been received from the party in the third boat, under the command of Lieutenant Chipp, but a long and fruitless investigation leaves little doubt that all its members perished at sea. As a slight tribute to their heroism I give in this communication the names of the gallant men who sacrificed their lives on this expedition: Lieutenant-Commander George W. De Long, Surgeon James M. Ambler, Jerome J. Collins, Hans Halmer Erichsen, Heinrich H. Kaacke, George W. Boyd, Walter Lee, Adolph Dressler, Carl A. Görtz, Nelse Iverson, the cook Ah Sam, and the Indian Alexy. The officers and men in the missing boat were Lieutenant Charles W. Chipp, commanding; William Dunbar, Alfred Sweetman, Walter Shar-

vell, Albert C. Kuehne, Edward Star, Henry D. Warren, and Peter E. Johnson.

Lieutenant Giles B. Harber and Master William H. Scheutze are now bringing home the remains of Lieutenant De Long and his comrades, in pursuance of the directions of Congress.

The Rodgers, fitted out for the relief of the Jeannette, in accordance with the act of Congress of March 3, 1881, sailed from San Francisco June 16, under the command of Lieutenant Robert M. Berry. On November 30 she was accidentally destroyed by fire, while in winter quarters in Saint Lawrence Bay, but the officers and crew succeeded in escaping to the shore. Lieutenant Berry and one of his officers, after making a search for the Jeannette along the coast of Siberia, fell in with Chief Engineer Melville's party, and returned home by way of Europe. The other officers and the crew of the Rodgers were brought from Saint Lawrence Bay by the whaling steamer North Star. Master Charles F. Putnam, who had been placed in charge of a depot of supplies at Cape Serdze, returning to his post from Saint Lawrence Bay across the ice in a blinding snowstorm, was carried out to sea and lost, notwithstanding all efforts to rescue him.

It appears by the Secretary's report that the available naval force of the United States consists of thirty-seven cruisers, fourteen single-turreted monitors, built during the rebellion, a large number of smooth-bore guns and Parrott rifles, and eighty-seven rifled cannon.

The cruising vessels should be gradually replaced by iron or steel ships, the monitors by modern armored vessels, and the armament by high-power rifled guns.

The reconstruction of our Navy, which was recommended in my last message, was begun by Congress authorizing, in its recent act, the construction of two large unarmored steel vessels of the character recommended by the late Naval Advisory Board, and subject to the final approval of a new advisory board to be organized as provided by that act. I call your attention to the recommendation of the Secretary and the board, that authority be given to construct two more cruisers of smaller dimensions, and one fleet dispatch vessel, and that appropriations be made for high-power rifled cannon, for the torpedo service, and for other harbor defenses.

Pending the consideration by Congress of the policy to be hereafter adopted in conducting the eight large navy-yards and their expensive establishments, the Secretary advocates the reduction of expenditures therefor to the lowest possible amounts.

For the purpose of affording the officers and seamen of the Navy opportunities for exercise and discipline in their profession, under appropriate control and direction, the Secretary advises that the Light-House Service and Coast Survey be transferred, as now organized, from the Treasury to the Navy Department; and he also suggests, for the reasons which he assigns, that a similar transfer may wisely be made of the cruising revenue vessels.

The Secretary forcibly depicts the intimate connection and interdependence of the Navy and the commercial marine, and invites attention to the continued decadence of the latter and the corresponding transfer of our growing commerce to foreign bottoms.

This subject is one of the utmost importance to the national welfare. Methods of reviving American ship-building and of restoring the United States flag in the ocean carrying trade should receive the immediate attention of Congress. We have mechanical skill and abundant material for the manufacture of modern iron steamships in fair competition with our commercial rivals. Our disadvantage in building ships is the greater cost of labor, and in sailing them, higher taxes and greater interest on capital, while the ocean highways are already monopolized by our formidable competitors. These obstacles should in some way be overcome, and for our rapid communication with foreign lands we should not continue to depend wholly upon vessels built in the yards of other countries and sailing under foreign flags. With no United States steamers on the principal ocean lines or in any foreign ports, our facilities for extending our commerce are greatly restricted, while the nations which build and sail the ships and carry the mails and passengers obtain thereby conspicuous advantages in increasing their trade.

The report of the Postmaster-General gives evidence of the satisfactory condition of that department, and contains many valuable data and accompanying suggestions which cannot fail to be of interest.

The information which it affords that the receipts for the fiscal year have exceeded the expenditures must be very gratifying to Congress and to the people of the country.

As matters which may fairly claim particular attention, I refer you to his observations in reference to the advisability of changing the present basis for fixing salaries and allowances, of extending the money-order system, and of enlarging the functions of the postal establishment so as to put under its control the telegraph system of the country, though from this last and most important recommendation I must withhold my concurrence.

At the last session of Congress several bills were introduced into the House of Representatives for the reduction of letter postage to the rate of two cents per half ounce.

I have given much study and reflection to this subject, and am thoroughly persuaded that such a reduction would be for the best interests of the public.

It has been the policy of the government from its foundation to defray, as far as possible, the expenses of carrying the mails by a direct tax in the form of postage. It has never been claimed, however, that this service ought to be productive of a net revenue.

As has been stated already, the report of the Postmaster-General shows that there is now a very considerable surplus in his department,

and that henceforth the receipts are likely to increase at a much greater ratio than the necessary expenditures. Unless some change is made in the existing laws the profits of the postal service will in a very few years swell the revenues of the government many millions of dollars. The time seems auspicious, therefore, for some reduction in the rates of postage. In what shall that reduction consist?

A review of the legislation which has been had upon this subject during the last thirty years discloses that domestic letters constitute the only class of mail matter which has never been favored by a substantial reduction of rates. I am convinced that the burden of maintaining the service falls most unequally upon that class, and that more than any other it is entitled to present relief.

That such relief may be extended without detriment to other public interests will be discovered upon reviewing the results of former reductions.

Immediately prior to the act of 1845, the postage upon a letter composed of a single sheet was as follows:

If conveyed	Cents.
30 miles or less	6
Between 30 and 80 miles	10
Between 80 and 150 miles	$12\frac{1}{2}$
Between 150 and 400 miles	$18\frac{3}{4}$
Over 400 miles	25

By the act of 1845 the postage upon a single letter conveyed for any distance under 300 miles was fixed at five cents, and for any greater distance at ten cents.

By the act of 1851 it was provided that a single letter, if prepaid, should be carried any distance not exceeding three thousand miles for three cents and any greater distance for six cents.

It will be noticed that both of these reductions were of a radical character and relatively quite as important as that which is now proposed.

In each case there ensued a temporary loss of revenue, but a sudden and large influx of business, which substantially repaired that loss within three years.

Unless the experience of past legislation in this country and elsewhere goes for naught, it may be safely predicted that the stimulus of $33\frac{1}{3}$ per centum reduction in the tax for carriage would at once increase the number of letters consigned to the mails.

The advantages of secrecy would lead to a very general substitution of sealed packets for postal cards and open circulars, and in divers other ways the volume of first-class matter would be enormously augmented. Such increase amounted in England, in the first year after the adoption of penny postage, to more than 125 per cent.

As a result of careful estimates, the details of which cannot be here set out, I have become convinced that the deficiency for the first year

after the proposed reduction would not exceed 7 per cent. of the expenditures, or $3,000,000, while the deficiency after the reduction of 1845 was more than 14 per cent., and after that of 1851 was 27 per cent.

Another interesting comparison is afforded by statistics furnished me by the Post-Office Department.

The act of 1845 was passed in face of the fact that there existed a deficiency of more than $30,000. That of 1851 was encouraged by the slight surplus of $132,000. The excess of revenue in the next fiscal year is likely to be $3,500,000.

If Congress should approve these suggestions it may be deemed desirable to supply to some extent the deficiency which must for a time result, by increasing the charge for carrying merchandise, which is now only sixteen cents per pound. But even without such an increase I am confident that the receipts under the diminished rates would equal the expenditures after the lapse of three or four years.

The report of the Department of Justice brings anew to your notice the necessity of enlarging the present system of Federal jurisprudence so as effectually to answer the requirements of the ever-increasing litigation with which it is called upon to deal.

The Attorney-General renews the suggestions of his predecessor that in the interests of justice better provision than the existing laws afford should be made in certain judicial districts for fixing the fees of witnesses and jurors.

In my message of December last I referred to pending criminal proceedings growing out of alleged frauds in what is known as the star-route service of the Post-Office Department, and advised you that I had enjoined upon the Attorney-General and associate counsel, to whom the interests of the government were intrusted, the duty of prosecuting with the utmost vigor of the law all persons who might be found chargeable with those offenses. A trial of one of these cases has since occurred. It occupied for many weeks the attention of the supreme court of this District, and was conducted with great zeal and ability. It resulted in a disagreement of the jury, but the cause has been again placed upon the calendar and will shortly be retried. If any guilty persons shall finally escape punishment for their offenses it will not be for lack of diligent and earnest efforts on the part of the prosecution.

I trust that some agreement may be reached which will speedily enable Congress, with the concurrence of the Executive, to afford the commercial community the benefits of a national bankrupt law.

The report of the Secretary of the Interior, with its accompanying documents, presents a full statement of the varied operations of that department. In respect to Indian affairs nothing has occurred which has changed or seriously modified the views to which I devoted much space in a former communication to Congress. I renew the recommendations therein contained as to extending to the Indian the protection of the law, allotting land in severalty to such as desire it, and making

suitable provision for the education of youth. Such provision, as the Secretary forcibly maintains, will prove unavailing unless it is broad enough to include all those who are able and willing to make use of it, and should not solely relate to intellectual training, but also to instruction in such manual labor and simple industrial arts as can be made practically available.

Among other important subjects which are included within the Secretary's report, and which will doubtless furnish occasion for Congressional action, may be mentioned the neglect of the railroad companies to which large grants of land were made by the acts of 1862 and 1864 to take title thereto, and their consequent inequitable exemption from local taxation.

No survey of our material condition can fail to suggest inquiries as to the moral and intellectual progress of the people.

The Census returns disclose an alarming state of illiteracy in certain portions of the country where the provision for schools is grossly inadequate. It is a momentous question for the decision of Congress whether immediate and substantial aid should not be extended by the general government for supplementing the efforts of private beneficence and of State and Territorial legislation in behalf of education.

The regulation of inter-state commerce has already been the subject of your deliberations. One of the incidents of the marvelous extension of the railway system of the country has been the adoption of such measures by the corporations which own or control the roads as has tended to impair the advantages of healthful competition and to make hurtful discriminations in the adjustment of freightage.

These inequalities have been corrected in several of the States by appropriate legislation, the effect of which is necessarily restricted to the limits of their own territory.

So far as such mischiefs affect commerce between the States, or between any one of the States and a foreign country, they are subjects of national concern, and Congress alone can afford relief.

The results which have thus far attended the enforcement of the recent statute for the suppression of polygamy in the Territories are reported by the Secretary of the Interior. It is not probable that any additional legislation in this regard will be deemed desirable until the effect of existing laws shall be more closely observed and studied.

I congratulate you that the commissioners under whose supervision those laws have been put in operation are encouraged to believe that the evil at which they are aimed may be suppressed without resort to such radical measures as in some quarters have been thought indispensable for success.

The close relation of the general government to the Territories preparing to be great States may well engage your special attention. It is there that the Indian disturbances mainly occur and that polygamy has found room for its growth. I cannot doubt that a careful survey

of Territorial legislation would be of the highest utility. Life and property would become more secure. The liability of outbreaks between Indians and whites would be lessened. The public domain would be more securely guarded and better progress be made in the instruction of the young.

Alaska is still without any form of civil government. If means were provided for the education of its people and for the protection of their lives and property the immense resources of the region would invite permanent settlements and open new fields for industry and enterprise.

The report of the Commissioner of Agriculture presents an account of the labors of that department during the past year, and includes information of much interest to the general public.

The condition of the forests of the country and the wasteful manner in which their destruction is taking place give cause for serious apprehension. Their action in protecting the earth's surface, in modifying the extremes of climate, and in regulating and sustaining the flow of springs and streams is now well understood, and their importance in relation to the growth and prosperity of the country cannot be safely disregarded. They are fast disappearing before destructive fires and the legitimate requirements of our increasing population, and their total extinction cannot be long delayed unless better methods than now prevail shall be adopted for their protection and cultivation. The attention of Congress is invited to the necessity of additional legislation to secure the preservation of the valuable forests still remaining on the public domain, especially in the extreme Western States and Territories, where the necessity for their preservation is greater than in less mountainous regions, and where the prevailing dryness of the climate renders their restoration, if they are once destroyed, well nigh impossible.

The communication which I made to Congress at its first session in December last contained a somewhat full statement of my sentiments in relation to the principles and rules which ought to govern appointments to public service.

Referring to the various plans which had theretofore been the subject of discussion in the National Legislature (plans which in the main were modeled upon the system which obtains in Great Britain, but which lacked certain of the prominent features whereby that system is distinguished), I felt bound to intimate my doubts whether they, or any of them, would afford adequate remedy for the evils which they aimed to correct.

I declared, nevertheless, that if the proposed measures should prove acceptable to Congress, they would receive the unhesitating support of the Executive.

Since these suggestions were submitted for your consideration there has been no legislation upon the subject to which they relate, but there has meanwhile been an increase in the public interest in that subject, and the people of the country, apparently without distinction of party,

have in various ways, and upon frequent occasions, given expression to their earnest wish for prompt and definite action. In my judgment, such action should no longer be postponed.

I may add that my own sense of its pressing importance has been quickened by observation of a practical phase of the matter, to which attention has more than once been called by my predecessors.

The civil list now comprises about one hundred thousand persons, far the larger part of whom must, under the terms of the Constitution, be selected by the President either directly or through his own appointees.

In the early years of the administration of the government, the personal direction of appointments to the civil service may not have been an irksome task for the Executive; but, now that the burden has increased fully a hundred-fold, it has become greater than he ought to bear, and it necessarily diverts his time and attention from the proper discharge of other duties no less delicate and responsible, and which, in the very nature of things, cannot be delegated to other hands.

In the judgment of not a few who have given study and reflection to this matter, the nation has outgrown the provisions which the Constitution has established for filling the minor offices in the public service.

But whatever may be thought of the wisdom or expediency of changing the fundamental law in this regard, it is certain that much relief may be afforded, not only to the President and to the heads of the departments, but to Senators and Representatives in Congress, by discreet legislation. They would be protected in a great measure by the bill now pending before the Senate, or by any other which should embody its important features, from the pressure of personal importunity and from the labor of examining conflicting claims and pretensions of candidates.

I trust that before the close of the present session some decisive action may be taken for the correction of the evils which inhere in the present methods of appointment, and I assure you of my hearty co-operation in any measures which are likely to conduce to that end.

As to the most appropriate term and tenure of the official life of the subordinate employés of the government, it seems to be generally agreed that, whatever their extent or character, the one should be definite and the other stable, and that neither should be regulated by zeal in the service of party or fidelity to the fortunes of an individual.

It matters little to the people at large what competent person is at the head of this department or of that bureau, if they feel assured that the removal of one and the accession of another will not involve the retirement of honest and faithful subordinates, whose duties are purely administrative and have no legitimate connection with the triumph of any political principles or the success of any political party or faction. It is to this latter class of officers that the Senate bill, to which I have already referred, exclusively applies.

While neither that bill nor any other prominent scheme for improving the civil service concerns the higher grade of officials, who are appointed by the President and confirmed by the Senate, I feel bound to correct a prevalent misapprehension as to the frequency with which the present Executive has displaced the incumbent of an office and appointed another in his stead.

It has been repeatedly alleged that he has in this particular signally departed from the course which has been pursued under recent administrations of the government. The facts are as follows:

The whole number of Executive appointments during the four years immediately preceding Mr. Garfield's accession to the Presidency was 2,696.

Of this number 244, or 9 per cent., involved the removal of previous incumbents.

The ratio of removals to the whole number of appointments was much the same during each of those four years.

In the first year, with 790 appointments, there were 74 removals, or 9.3 per cent.; in the second, with 917 appointments, there were 85 removals, or 8.5 per cent.; in the third, with 480 appointments, there were 48 removals, or 10 per cent.; in the fourth, with 429 appointments, there were 37 removals, or 8.6 per cent. In the four months of President Garfield's administration there were 390 appointments and 89 removals, or 22.7 per cent. Precisely the same number of removals (89) has taken place in the fourteen months which have since elapsed, but they constitute only 7.8 per cent. of the whole number of appointments (1,118) within that period, and less than 2.6 of the entire list of officials (3,459), exclusive of the Army and Navy, which is filled by Presidential appointment.

I declare my approval of such legislation as may be found necessary for supplementing the existing provisions of law in relation to political assessments.

In July last I authorized a public announcement that employés of the government should regard themselves as at liberty to exercise their pleasure in making or refusing to make political contributions, and that their action in that regard would in no manner affect their official status.

In this announcement I acted upon the view which I had always maintained and still maintain, that a public officer should be as absolutely free as any other citizen to give or to withhold a contribution for the aid of the political party of his choice. It has, however, been urged, and doubtless not without foundation in fact, that by solicitation of official superiors and by other modes such contributions have at times been obtained from persons whose only motive for giving has been the fear of what might befall them if they refused. It goes without saying that such contributions are not voluntary, and in my judgment their collection should be prohibited by law. A bill which will effectually suppress them will receive my cordial approval.

I hope that however numerous and urgent may be the demands upon your attention, the interests of this District will not be forgotten.

The denial to its residents of the great right of suffrage in all its relation to national, State, and municipal action imposes upon Congress the duty of affording them the best administration which its wisdom can devise.

The report of the District Commissioners indicates certain measures whose adoption would seem to be very desirable. I instance in particular those which relate to arrears of taxes, to steam railroads, and to assessments of real property.

Among the questions which have been the topic of recent debate in the halls of Congress none are of greater gravity than those relating to the ascertainment of the vote for Presidential electors and the intendment of the Constitution in its provisions for devolving Executive functions upon the Vice-President when the President suffers from inability to discharge the powers and duties of his office.

I trust that no embarrassments may result from a failure to determine these questions before another national election.

The closing year has been replete with blessings for which we owe to the Giver of all Good our reverent acknowledgment. For the uninterrupted harmony of our foreign relations, for the decay of sectional animosities, for the exuberance of our harvests and the triumphs of our mining and manufacturing industries, for the prevalence of health, the spread of intelligence and the conservation of the public credit, for the growth of the country in all the elements of national greatness—for these and countless other blessings—we should rejoice and be glad. I trust that, under the inspiration of this great prosperity, our counsels may be harmonious, and that the dictates of prudence, patriotism, justice, and economy may lead to the adoption of measures in which the Congress and the Executive may heartily unite.

CHESTER A. ARTHUR.

WASHINGTON, *December* 4, 1882.

FOREIGN RELATIONS.

LIST OF PAPERS, WITH THEIR SUBJECTS.

ARGENTINE REPUBLIC.

No.	From and to whom.	Date.	Subject.	Page.
		1882.		
1	Mr. Thomas O. Osborn to Mr. Frelinghuysen (No. 350).	Feb. 10	Military service: Liability to, of an Argentine resident after naturalization in the United States claimed on the ground that all born on Argentine soil are Argentines; suggestion of arrangement with United States to regulate such cases; meanwhile in Rowe's case appeal to be made to federal judge.	1
2	Same to same (No. 359).....	May 18	Political: Copy of President's message to Argentine Congress inclosed; internal peace and progress of the country; increase of immigration; recognition of kindly offices of United States minister in the limits question with Chili.	2
3	Mr. Frelinghuysen to Mr. Thomas O. Osborn (No. 168).	June 19	Military service: Liability to, of an Argentine resident after naturalization in United States; naturalized citizens of United States abroad, entitled to all the rights that a native American would possess, except in case of a relinquishment of his acquired citizenship; the submission of, in Rowe's case, unfortunate.	3
4	Same to same (No. 169).....	Aug. 9	Peace congress of American governments; postponement of, and reasons for same.	4

AUSTRIA-HUNGARY.

5	Mr. Phelps to Mr. Frelinghuysen (No. 63).	Apr. 20	Trade with Egypt and Turkey: The high favor among Eastern people in which Americans and American institutions are held, opens to Americans a field for profitable enterprise.	5

BELGIUM.

6	Mr. Putnam to Mr. Frelinghuysen (No. 127).	Jan. 24	Extradition: Treaty of, between Belgium and Italy; revision of, provides for trial for other offenses than the one for which party was extradited, and the transfer by state first in possession of extradited party to a third country: copy of, inclosed; all the result of the negotiations in the Collins Bros. case.	6
7	Same to same (No. 140).....	Mar. 22	Copy-right, trade and commerce: Treaties of, between Belgium and France; copies of, inclosed; ratified by Belgium; time for ratification of, by France extended; review of provisions of.	7
8	Same to same (No. 153).....	May 24	Public instruction law: Maintenance of, the only grave question between the Liberals and Catholics in the approaching election of members of new Parliament; attempt of the Catholics to evade purpose of law of 1879, and give the Catholic Church the control of the schools; copy of mandate of the bishops, and extract from Brussels Courier relative to, inclosed.	11
9	Same to same (No. 157).....	June 8	Marriage ceremony in Belgium: amendment of civil code relative to, authorizing Belgian diplomatic and consular agents to perform; copy of, and "expose des notifs" of the amendment inclosed.	13

BELGIUM—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1882.		
10	Mr. Putnam to Mr. Frelinghuysen (No. 159).	June 15	Political: Public instruction law of 1879; victory of the Liberals in late election assures the maintenance of law of 1879; suspension of diplomatic relations with the Vatican will be continued; dissensions in Liberal party on account of question of universal suffrage.	15
11	Mr. Fish to Mr. Frelinghuysen (No. 15).	July 27	Assisted emigration: Legislative action in Great Britain in aid of, as an economical means of relieving Ireland of its overpopulation; result will be to burden United States with pauperism, unless appropriate legislative action be made.	16
12	Same to same (No. 17).....	July 31	Assisted emigration: Russians sent back at expense of United States; censure of United States for, by public press, exemplifies the opinion that "anybody is good enough for America."	18

BOLIVIA.

13	Mr. Adams to Mr. Frelinghuysen (No. 92).	Feb. 27	Peace congress of American governments: Invitation to Bolivia to take part in, delivered; will probably be accepted; correspondence relative to, inclosed.	19

BRAZIL.

14	Mr. Thomas A. Osborn to Mr. Frelinghuysen (No. 12).	Feb. 9	Peace congress of American governments: Views of United States as to, conveyed to Brazil favorably received by the Emperor; Brazil will probably send two representatives to.	20
15	Same to same (No. 13).....	Feb. 10	Peace congress of American governments: Brazil accepts invitation to take part in, and will send two representatives; note of minister of foreign affairs relative to, inclosed.	21
16	Mr. Frelinghuysen to Mr. Thomas A. Osborn (No. 22).	Mar. 14	Peace congress of American governments: Gratification of United States at Brazil's prompt acceptance of invitation to send representatives to.	21
17	Mr. Thomas A. Osborn to Mr. Frelinghuysen (No. 21).	Mar. 23	Peace congress of American governments: Discussion of, in Senate and official organ of Brazil; objections to, that the action of, does not include means of enforcing its determinations; fear of the supposed aggrandizing policy of United States; European influence at work to enforce these objections; rumor of official announcement to Chili of the indefinite postponement of.	22
18	Same to same (No. 30).....	May 17	Boundary dispute between Argentine Republic and Brazil: War imminent if Argentine Republic takes possession of the disputed territory in violation of agreement for non-exercise of sovereignty in; protests of Brazil against; newspaper extracts relative to, inclosed.	25
19	Same to same (No. 35).....	June 10	Bolivian commerce, conduct of, on the Amazon River: Treaty conceding to Bolivia use of railway around certain cataracts, thereby enabling the latter to avail itself of the navigation of the Amazon for exportation and importation; Mr. Church, an American, will probably be granted right to construct the railway.	28
20	Same to same (No. 36).....	June 17	Peace congress of American governments: Incloses report of minister of foreign affairs relative to; Brazil adheres to the acceptance of United States invitation to participate in, and desires early information as to whether congress will be held.	29
21	Same to same (No. 37).....	June 19	Uruguay and Brazil: Rupture of relations between, imminent on account of unsettled condition of Brazil's claims for impressment of its citizens by Uruguayan soldiers and default in payment of its debt to Brazil; rumored that settlement of the questions may be effected by cession of territory of Uruguay.	30
22	Mr. Frelinghuysen to Mr. Thomas A. Osborn (No. 36).	July 26	Debt of Uruguay to Brazil: United States would not encourage the cancellation of a debt of that republic by any transfer of its territory, if the government thereof would thereby cease to be republican.	32

CENTRAL AMERICA.

No.	From and to whom.	Date.	Subject.	Page.
		1882.		
23	Mr. Logan to Mr. Frelinghuysen (No. 273).	Mar. 3	Peace congress of American governments: Incloses article from official organ of Guatamala, commendatory of, and felicitating the United States as being pre-eminently the republic to successfully accomplish the grand purpose of the congress.	32
24	Mr. Frelinghuysen to Mr. Logan (No. 196).	Mar. 14	Maritime Canal Company of Nicaragua: Amendment to bill incorporating, that the possession of canal by the United States be subject to sovereign rights of Nicaragua; copy of bill inclosed.	34
25	Mr. Logan to Mr. Frelinghuysen (No. 280).	Mar. 21	Maritime Canal Company of Nicaragua: Telegram received; extension for time of commencement of work of; no probability of any concessions to foreign companies adverse to interests of America.	34
26	Same to same (No. 281)	Mar. 22	Peace congress of American governments: Cordial acceptance by Honduras of invitation to send commissioners to; Costa Rica, while approving objects of, waits until advised that the congress will not be postponed; correspondence inclosed.	35
27	Same to same (No. 284)	Apr. 3	Maritime Canal Company of Nicaragua: Contract of Nicaragua and A. P. Blanchet for construction of a canal between Lakes Managua and Nicaragua; the interests of the American concession are expressly guarded by the provisions of articles 25 and 27, and provision is made for the purchase from Blanchet.	36
28	Mr. Titus to Mr. Frelinghuysen (No. 5).	May 12	Guatemala and Mexico: Boundary dispute between; incloses copies of notes relative to, exchanged between Guatemalian minister of foreign affairs and Mexican minister; President Barrios authorized to definitely arrange dispute.	42
29	Mr. Hall to Mr. Frelinghuysen (No. 9).	Aug. 29	President Barrios, visit of, to United States: Gratitude of Guatemala for attention to, on that occasion; correspondence relative to, inclosed.	46
30	Same to same (No. 18).....	Sept. 21	Peace congress of American governments: Notices of postponement of, to all of the Central American States; regret of Guatemala at the failure of such an important project and hope for its revival at an early day.	47
31	Mr. Frelinghuysen to Mr. Hall (No. 14).	Sept. 20	Courtesies to President Barrios: It was a gratification to United States by that mode to manifest its sympathy and friendship for a sister republic.	48
32	Mr. Hall to Mr. Frelinghuysen (No. 20).	Sept. 29	Invasion of Guatemala by expeditions from border states of Mexico: To entice or compel inhabitants to adherence to public acts of annexation to Mexico; correspondence relative to, inclosed.	49
33	Same to same (No. 23).....	Oct. 9	Central and South American Telegraph Company: Opening of, to public service through Republic of Salvador; copy of contract of, with Republic of Guatemala inclosed; reasons for landing cable at La Libertad.	51

CHILI.

		1881.		
34	Mr. Trescot to Mr. Blaine (No. 1).	Dec. 12	Peace question: Arrival of special commission at Panama; non-arrival of instructions to United States ministers relative to, and invitations to Chili, Peru, and Bolivia to peace congress; embarrassment resulting from; invitations should not be delivered without knowledge of Mr. Trescot; Peru; uncertainty of its existence; General Cáceres provisional dictator of; proclamation of; and address of Minister Hurlbut to notables of Lima, inclosed.	54
		1882.		
35	Mr. Frelinghuysen to Mr. Trescot (telegram).	Jan. 3	Peace question: Instructed to exert pacific influence and avoid issue leading to his withdrawal from Chili.	56
36	Mr. Frelinghuysen to consul at Panama (telegram).	Jan. 4	Peace question: To be mailed to Mr. Trescot; friendly offices of United States impartially to Chili and Peru; pacific influence to be exerted; issue leading to offense to be avoided; Calderon affair will be attended to in Washington.	57

CHILI—Continued.

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37	Mr. Frelinghuysen to Mr. Trescot (No. 6).	Jan. 9	Peace question: Recall of that portion of instructions relative to the issue of the Calderon affair; United States, recognizing Chili and Peru as independent republics, has no inclination to dictate as to the merits of the controversy, thereby necessitating the preparation of an army and navy, and consequent taxation of citizens of the United States for the benefit of foreign nations; project of peace congress discouraged.	57
38	Mr. Trescot to Mr. Frelinghuysen (No. 2).	Jan. 13	Peace question: Presentation of credentials as special envoy; exaggerated impression that Mr. Trescot was bearer of demand that Chili make peace on such terms as United States deem just; difficulty in correcting extravagant hopes of Peru. Chili really desires peace, and would gladly find a solution that would relieve it from a prolonged occupation of Peru. Correspondence with Chilian minister of affairs inclosed.	58
39	Same to same (telegram)	Jan. 23	Conditions of peace demanded by Chili; indemnity and cession of territory; disclaims intention to offend by removal of Calderon; Chili will facilitate conference with provisional government of Peru, with the exception of Calderon; asks instructions as to interference on conditions named.	61
40	Same to same (No. 5)	Jan. 27	Peace question: Interest of all requires prompt decision as to extent of further intervention of the United States; cession of Tarapacá unavoidable unless United States forcibly intervene. Owing to extravagant hopes of Peru, it is uncertain how it will receive any recommendation of the United States; Chili may modify her demands at earnest remonstrance of United States.	61
41	Same to same (No. 6)	Jan. 27	Calderon government: Request that Mr. Kilpatrick's dispatches and instructions in relation to, be not published. Reasons for the request: Bad effect of the publication.	63
42	Same to same (No. 7)	Jan. 27	Peace congress of American governments: Thinks the invitation for Chili, Bolivia, and Peru should have been sent to him; that United States ministers at those governments should take no action until after consultation with him.	64
43	Mr. Walker Blaine to Mr. Frelinghuysen (No. 7).	Feb. 3	Peace congress of American governments: Report that United States has abandoned the project of, at the suggestion of minister of foreign affairs, invitation to Chili not delivered.	65
44	Mr. Trescot to Mr. Frelinghuysen (No. 8).	Feb. 3	Peace Congress: Chili declines to receive invitation to, because project for, abandoned by United States, and instructions to Mr. Trescot had been changed; complaint of action of Mr. Hurlbut and Mr. Adams; Mr. Trescot awaits further instructions before further action.	67
45	Same to same (No. 10)	Feb. 3	Publication of Mr. Kilpatrick's dispatches: Alleged misrepresentation of Chili's position; correspondence with Mr. Balmaceda inclosed as to.	71
46	Mr. Frelinghuysen to Mr. Trescot (telegram).	Feb. 4	Peace question: Policy of the United States on; to give counsel in negotiation; but in no event, if based on surrender of Tarapacá and indemnity of $20,000,000.	73
47	Same to same (telegram)	Feb. 21	Peace question: United States will assent to liberal war indemnity, but not to cession of Tarapacá; desire to urge moderation on part of Chili.	73
48	Same to same (No. 7)	Feb. 24	Peace question: Substance of telegrams since January 1; United States desirous that its good offices be made available for restoration of peace; not willing to be medium of a proposal so onerous that it cannot be entertained by Peru; anxious that an honorable peace, leaving Peru a government, be brought about through its friendly offices.	73
49	Mr. Walker Blaine to Mr. Frelinghuysen (No. 8).	Feb. 24	Peace congress: Chili receives the invitation to participate in, as if presented at earlier date; principles of, approved, but reply promised at an early date.	76

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50	Mr. Trescot to Mr. Frelinghuysen (telegram).	Feb. 24	Peace question: Chili will not modify peace terms; she is so strong, Peru so weak, that mere friendly intervention will not avail; no use of remaining longer; definite instruction asked.	77
51	Same to same (No. 12).....	Feb. 24	Peace question: Moderation of terms urged upon Chili in vain; cession of territory and indemnity insisted on; Peru has no capacity of resistance, and Chili will not yield to friendly persuasion; embarrassment by the publication of Chili's terms confidentially made to United States; communication of United States that it will not negotiate on Chili's conditions, and Chili's refusal to modify, practically closes the special mission.	78
52	Mr. Frelinghuysen to Mr. Trescot (telegram).	Mar. 1	Peace question: Mr. Trescot and Mr. Blaine to remain and report the situation, and improve any opportunity to carry out views of United States.	79
53	Mr. Trescot to Mr. Frelinghuysen (telegram).	Mar. 4	Peace question: Instructions carried out scrupulously.	79
54	Same to same (No. 13).....	Mar. 4	Peace question: Conferences relative to, between Mr. Balmaceda and Mr. Trescot: substance of, embodied in protocol, February 11; Chili maintains conditions of peace set out in protocol; correspondence relative to, and copy of protocol inclosed.	79
55	Same to same (No. 15).....	Mar. 16	Publication of Mr. Kilpatrick's dispatches: Copy of Diario Oficial relative to errors in notes of.	85
56	Mr. Frelinghuysen to Mr. Trescot (No. 8).	Mar. 18	Proposal for joint mediation of Brazil and Argentine Republic for peace between Chili and Peru: No. 337, from Buenos Ayres, relative to, inclosed; also copy of memorandum of similar action of Argentine Republic between belligerents on west coast of South America in 1880.	85
57	Mr. Trescot to Mr. Frelinghuysen (No 19).	Apr. 5	Peace question: Has notified provisional government of Peru of the terms of settlement offered as a basis of the United States' offer of good offices.	89
58	Same to same (telegram)....	Apr. 12	Peace question: Bases of negotiations can be obtained.	89
59	Same to same (telegram)....	May 3	Peace question: Peru asks Chili to recognize provisional government of Peru and allow meeting of Congress; urged compliance of Chili.	90
60	Same to same (No. 24).....	May 3	Peace question: Credentials and terms of negotiation acceptable to Chili presented to Montero; Peru anxious for peace, but not on terms of Chili; Peru desires the recognition of Montero as provisional executive, and granting of armistice to enable calling of Congress; practical result of negotiation probable; correspondence relative to, inclosed.	90
61	Same to same (No. 25).....	May 9	Peace question: Incloses dispatches from Walker Blaine, referring to his visit to Bolivia.	95
62	Same to same (No. 26).....	June 5	Peace negotiations: Hesitation of Chili in assenting to Peru's terms; he believes that Peru still hopes for intervention of United States; probability of Peru applying to European powers in case of failure of United States to intervene.	103
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74	Same to same (No. 66)	Feb. 21	Shanghai land regulations: Question of their legality raised in case of tax imposed on an American citizen: copy of an order in council issued by Great Britain, authorizing her ministers in China to make such, in the interest of British subjects, inclosed: suggests similar action by United States in the interest of their citizens in Shanghai; decision of the consul, Denny, in case above referred to.	123
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105	Mr. Davis to Mr. Lowell (No. 316).	Feb. 10	Arrest of Daniel McSweeney: Instructed to inquire into circumstances of, and report result.	196
106	Same to same (No. 317).....	Feb. 10	Arrest of American citizens: Incloses House Resolution requesting information relative to; full report requested.	198
107	Mr. Lowell to Mr. Frelinghuysen (No. 322).	Feb. 24	Arrest of American citizens: Full report relative to, being prepared; Mr. Davis's 316 and 317 received.	199
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272	Same to same (No. 241).....	July 1	Persecution of Jews in Russia: Circular of minister of interior relative to, inclosed, showing the desire of Russia to check.	454

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274	Mr. Hamlin to Mr. Frelinghuysen (No. 10).	Jan. 16	Consular tariff of Spain: Onerous charges by Spanish consuls in the United States, amounting to an export duty on shipments from United States to Spanish ports; copy of minister's note protesting against the practice, inclosed.	456
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278	Mr. Read to Mr. Frelinghuysen (No. 120).	Mar. 20	American vessels in Spanish colonial ports: Arbitrary and unjust fines imposed on; complaint of, to minister of foreign affairs; request that captain-general in Cuba or His Majesty's minister in United States be empowered to redress such cases and obviate payment of same pending a reference to Madrid, inclosed.	461
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304	Mr. Frelinghuysen to Mr. Wallace (No. 32).	1882. Jan. 7	Insecurity of life and property in Turkey: Reported action of the Turkish Government in rejecting the good offices of British consuls in behalf of our citizens; instructed to remonstrate, and ask Turkish Government how United States missionaries in Turkey can be now protected.	498
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330	Mr. Frelinghuysen to Mr. Baker (No. 151).	May 8	Custody of ships' registers in ports of Venezuela: Venezuela to be urged to adopt provisions of United States Statutes, of depositing registers in office of United States consuls, Article XII of Consul Regulations of 1881 referred to.	534
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332	Same to same (No. 487)	June 13	Discriminating duties on goods transshipped from West Indies to Venezuela: Modification of the law will be asked for, to exempt goods from United States covered by, through consular invoices and bills of lading for United States ports; President has sufficient power, though Congress has adjourned, to make this remedial measure.	535
333	Same to same (No. 494)	June 19	Additional duty of 30 per cent. on consignments transshipped to Venezuela by way of colonial ports: Reiterated that though Venezuela did not intend by this measure to injure commerce of United States, such would be its effect; the exemption of consignments covered by through consular invoices and bills of lading, by way of colonial ports to Venezuela, would remedy the mischief to our commerce.	536
334	Mr. Frelinghuysen to Mr. Baker (No. 163).	July 5	Additional duty of 30 per cent. on consignments transshipped by way of colonial ports to Venezuela: Letter of Boulton, Bliss & Dallett, asking for modification of, as to merchandise covered by consular invoices destined for Maracaibo by transshipment at Curacoa inclosed.	537
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337	Mr. Baker to Mr. Frelinghuysen (No. 542).	Aug. 29	Centennial celebration of the birthday of Bolivar: To take place July 24, 1883, all nations generally to be invited to take part; monumental statue of George Washington to be erected as part of the celebration.	539
338	Same to same (No. 570)	Oct. 31	Custody of ships' registers by customs authorities: Interview with the President relative to United States' request that it be accorded to the respective consuls; supported on ground that it was the general practice and dictate of the comity of nations; danger of loss of papers by local officials; these views Venezuela dissents from; instructions relative requested.	539
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341	Same to same (No. 190)	Nov. 29	Custody of ships' papers in ports of Venezuela: Reasons United States desires a change in law of; that it would not be an innovation to put ships' papers on deposit with the respective consuls; existing rule is in contravention of spirit of reciprocity; custody of ships' papers by consul of her nation is necessary to the prevention of frauds.	543

CORRESPONDENCE.

ARGENTINE REPUBLIC.

No. 1.

Mr. Osborn to Mr. Frelinghuysen.

No. 350.] LEGATION OF THE UNITED STATES,
Buenos Ayres, February 10, 1882. (Received March 22.)

SIR: Mr. John S. Rowe, a native of this country, born of English parents, having been cited by the authorities of the province of Buenos Ayres to appear and enroll himself in the militia of the province, and having failed to comply with the citation, was placed under arrest, but given the liberty of the town, St. Vincent.

Mr. Rowe telegraphed me informing of his arrest, and that he was a naturalized citizen of the United States, and at the same time forwarded to me his naturalization papers and a passport granted him by the Department of State.

As soon as I received his papers, I had an interview with the minister of foreign affairs at his private residence and requested Mr. Rowe's release at once, stating that if there could be any question as to Mr. Rowe's citizenship, that matter could be subsequently and amicably settled. The minister at once directed a note to the governor and requested Mr. Rowe's immediate release, which was done.

It appears from Mr. Rowe's statement, that in the year 1868 he arrived in the United States, with no other object in view further than that of obtaining a good general education.

From 1868 to 1875 he resided in the State of Ohio; during this time he went through a regular course of study at Baldwin University, but a portion of the time he was engaged in farming and in work as a carpenter.

In 1875, his health being poor, he returned to Buenos Ayres, where his parents and relatives live. In 1876 he again went to the United States, and married in Ohio, where he remained but a short time (a few months), his health being yet poor. Requiring a warmer climate, he returned again "temporarily" to the Argentine Republic, where he is now engaged at work with a reaping machine.

It was during Mr. Rowe's first visit to the United States that he received his naturalization papers, and they appear to be regular.

The governor of this province has decided that Mr. Rowe is an ex-Argentine citizen, on the ground, the constitution and law declare, that all persons born on Argentine soil are Argentines.

It appears that the Argentine naturalization laws do not require a person making application to become an Argentine citizen to renounce absolutely allegiance to his sovereign, and he only remains an Argen-

tine citizen so long as he remains on Argentine soil or under Argentine jurisdiction.

In a second interview with the minister of foreign affairs it was suggested that, as the question had been raised, it was a matter of much importance that the two governments should arrive, in a friendly way, at an understanding in reference to the regulations which should control in this and like cases, and, in order that the present case might be properly brought before us, that Mr. Rowe should first appeal to the federal judge for a decision; which course was adopted, and the case is now before the court.

I have not been able to obtain copies of our late treaties with Germany and other powers in relation to naturalized citizens, and would be pleased to receive them or any instructions which the department may see proper to give.

I have, &c.,

THOMAS O. OSBORN.

No. 2.

Mr. Osborn to Mr. Frelinghuysen.

No. 359.] LEGATION OF THE UNITED STATES,
Buenos Ayres, May 18, 1882. (Received July 10.)

SIR: On the 7th instant President Roca opened the annual session of the Argentine Congress by reading his second annual message in both houses, a printed copy (translated) of which I have the honor to forward with this.

The President opened his message by referring to the progress and internal peace of the country, which has not been disturbed during the past year, and says the republic is beginning to be mistress of itself, and to feel less uncertainty as to the future, and the confidence so inspired is spreading to foreigners, and attracting the attention of capitalists, scientists, and manufacturers of countries that have a plethora of population.

In reference to the subjects of immigration and colonization, he says that the arrivals during last year reach 32,817 souls, and this increase in population was spontaneous, and cost the nation nothing. Besides the colonies in the provinces, there are eight colonies on national territory, containing 9,370 settlers, with property valued at $1,977,774.

In referring to the subject of foreign relations, the President speaks of the limits question with Chili, which had so much occupied the public mind, and which had passed through so many changes, and very gracefully adverts to the good influence of the American ministers here and in Chili in reopening negotiations, and whose services continued until the question was finally settled.

The message is well received, and the press of all parties admit that it is clear and comprehensive, giving a fair and true statement of public affairs throughout the Republic.

I have, &c.,

THOMAS O. OSBORN.

No. 3.

Mr. Frelinghuysen to Mr. Osborn.

No. 168.] DEPARTMENT OF STATE,
Washington, June 19, 1882.

SIR: I have received and duly considered your dispatch No. 350, of the 10th of February last, relative to the questioned citizenship of Mr. John S. Rowe.

It seems that Mr. Rowe, an Argentine citizen by birth, having resided and been naturalized in the United States, has been arrested for military duty on his return to his native land; that on your representations he has been released, and that proceedings before an Argentine tribunal, in the nature of an appeal on Mr. Rowe's part, are now pending.

You also represent the earnest desire of the Argentine minister of state to reach a harmonious understanding with this government in the matter of conflicting claims of citizenship under the organic laws of the two countries, and you accordingly ask the instructions of the Department in the premises, as well as copies of the late naturalization treaties of the United States with foreign powers.

Responding to your specific request, I send you herewith a number of naturalization treaties for your examination. I may add, however, that these treaties do not *create* rights for our naturalized citizens returning to the land of their nativity; they simply recognize and define the rights of expatriation, which we hold to be an inherent right of all men.

Even in the absence of a specific treaty on the subject, this government must, in consonance with the principle it uniformly follows, claim for a duly naturalized citizen of the United States abroad all the rights which a native American citizen would possess under like circumstances, save only in the case of the performance by the naturalized citzen of some voluntary act amounting to an intelligent relinquishment of his acquired citizenship and resumption of his birth allegiance. If conflicts arise as to the status of individuals, they are within the competence of diplomacy to arrange. It is, therefore, regarded as somewhat unfortunate that you have consented, pending the needful diplomatic discussion of Rowe's case, to refer to the Argentine courts the question of his military allegiance to the Argentine Republic.

As the case now stands, we should with difficulty assent to the pretension that an American citizen, returning in good faith and honesty to the land of his original allegiance, and relying on the power of his government to protect his acquired rights there as elsewhere, may be surprised by an announcement, judicial or otherwise, that by the mere act of return, and without intention on his part so to do, he ceases to be an American citizen.

If, under cover of a judicial decision, the Argentine Government should insist on its claim that Rowe's return to Argentine jurisdiction annuls the rights he has acquired here, we shall expect and insist that he shall be given notice of this, and allowed a reasonable time to quit the country if he has not the intention of resuming his original allegiance. This expectation is not an innovation. Its principle is found in the greater number of modern treaties of extradition, where, in case of fresh proceedings against a surrendered criminal for offenses other than those for which he was extradited or condemned, it is provided that he shall first be allowed one month in which to leave the country. It is certainly not unreasonable to expect that a peaceful and reputable citizen should be allowed at least equal consideration with a convicted criminal.

In other words, we can only assent to recognize as valid and in accordance with the principles of human rights and international jurisprudence a voluntary and intelligent resumption of Argentine citizenship on the part of Rowe or any other American citizen so situated, and not a surprised and enforced submission.

You will submit these views to the minister of foreign relations, saying that, in view of his expressed desire for a conciliatory good understanding in the premises, it is not doubted that the ground held by this government will commend itself to him as one which he would desire, in return, to see govern the personal status of an American naturalized in the Argentine Republic and returning to the United States on innocent business.

I am, &c.,

FRED'K T. FRELINGHUYSEN.

No. 4.

Mr. Frelinghuysen to Mr. Osborn.

No. 169.] DEPARTMENT OF STATE,
Washington, August 9, 1882.

SIR: The President, through the medium of your legation, in November last, extended to the government of the Argentine Republic an invitation to be represented at a congress of American States which it was proposed to hold in Washington on the 22d day of November next, for the purpose of considering questions connected with the preservation of peace on the American continent, and it is presumed that you have, in compliance with the Department's instructions, communicated the invitation to the Argentine Government.

At the time that proposal was put forth, the President expressed the fervent hope that by the date fixed for the meeting of the congress the questions now dividing some of the republics of the southern continent would have disappeared, and that the representatives of the several commonwealths could meet with freedom to discuss the future aspects of the question, unaffected by any existing national difficulties.

The President, however, now directs me to instruct you to inform the government of the Argentine Republic that inasmuch as that peaceful condition of the South American republics which was contemplated as essential to a profitable and harmonious assembling of the Congress does not exist, and he having, besides, on the 18th day of April, 1882, submitted the proposition to Congress without evoking an expression of its views on the subject, and no provision having been made by it for such a Congress, he is constrained to postpone the projected meeting until some future day.

While thus giving due notification to the friendly governments interested, the President cannot but express his belief that the fact of such a congress having been called has not been without benefit, it having directed the attention of the people of the United States, as well as of the republics of South America, to the importance of having a more defined policy, to be satisfactory to all, governing the international relations of the republics.

You will communicate this dispatch to the minister for foreign relations of the Argentine Republic at an early day, by reading it to him, and, if he shall so desire, leaving with him a copy of it.

I am, &c.,

FRED'K T. FRELINGHEYSEN.

AUSTRIA-HUNGARY.

No. 5.

Mr. Phelps to Mr. Frelinghuysen.

[Extract.]

No. 63.] LEGATION OF THE UNITED STATES,
Vienna, April 20, 1882. (Received May 6.)

SIR: * * * With an earnest desire to find something in my recent visit to the east which might be of real value to the Department, I could find nothing which the resources of the press and the vigilance of the local agents of the Department—who seem to stand at their posts like sentries, with eager eye watching for every bit of information—was not gathering.

But my own observation impressed me so strongly with the high favor in which American men and American institutions are just now held among eastern peoples, that I want to record my testimony, although only cumulative.

It would seem a great misfortune if American energy should be so exhausted in the west as to neglect the flattering field thus opened to its trade in the east. Rulers and subjects are united in the possession and expression of the kindliest feeling towards us, and Americans may rely on receiving not only the treatment accorded to the most favored nations, but even a better. I think General Wallace, at Constantinople, and Mr. Wolf, at Cairo, would corroborate my statement, that to-day, upon a proposition to the government for a charter or concession, or to the average Turk or Egyptian for a bargain, the American, both at court and in the market, would receive the preference. Does not this open to us a field of profitable enterprise, the limits of which can be found only in the resources of a people who begin to appreciate, and are still lacking, all those conveniences which modern invention has added to civilized life? And this appreciation of us and our country, it must be remembered, is at a time when the United States can make no display of those material resources which unduly, and, it has been supposed, only affect the oriental imagination. The harbors of Alexandria, Smyrna, and the Sea of Marmora see the great ships and hulking ironclads of our rivals, but rarely any vessels of ours.

Two influences seem mainly to have produced this sentiment so strange and so flattering. The education given by the American colleges and the characters and influence of the American missionary is one. On the most conspicuous site on the Bosphorus stands Robert College, and on a rocky point, seen by the mariner long before the minarets and roofs of the surrounding city of Beirut, stands the Syrian Protestant college. Both institutions are founded by American munificence, and no youth who seeks here a liberal education fails to recognize that the privileges of library, and dormitory, and lecture-room, and class-room, and grounds, and hall, are the unselfish gift of American philanthropy.

The college at Beirut, under the influence of a great demand, has gathered round itself the ordinary departments of a university. These departments, like the parent college, are housed in stone, and the stately

structures suggest that the learning for which they exist has come to stay. It is difficult to overestimate the influence wielded by the lawyer, the doctor, the engineer, the teacher, the scholar, who returns from these walls to his home in Bulgaria, Syria, Arabia, and Egypt. He left it a poor native boy—he returns to wield the power of education among the illiterate, and never fails gratefully to remember and eloquently to tell a story so full of honor to America.

A second influence is the general impression, that all other nations have only selfish objects in their intercourse with Turkey; they come because they want something. On the other hand, the common talk in every Eastern mouth was, "You Americans want nothing; you seek to give; you build our colleges; you educate our youths; you seek no offices for your citizens; you seek no share of our lands; you enforce the payment of no illegal debt." And these expressions so constantly heard, some in a rough way, the opportunities for American influence in Turkey. The policy of our government countenances no governmental interference. But that policy has taught the American citizen everywhere to rely on himself. Is there any reason why the American citizen should not here as an individual step in and establish a trade and general commercial intercourse which would be most remunerative to us and yet most useful to the Turks?

I have, &c.,

WM. WALTER PHELPS.

BELGIUM.

No. 6.

Mr. Putnam to Mr. Frelinghuysen.

No. 127.] LEGATION OF THE UNITED STATES,
Brussels, January 24, 1882. (Received February 9.)

SIR: The diplomatic questions raised by the United States in the matter of the extradition of the Collins brothers from Italy to Belgium, and of their transfer from Belgium to a third country, have led to a revision of the extradition treaty between Italy and Belgium of 1875.

I have the honor to send herewith the text of the amendments now in full force, and a translation of the same. I add, also, on page 4, the second section of article 3 of treaty of 1875.

The treaty as amended allows the trial and punishment for crimes and offenses other than that for which the party was extradited, with the consent of the state that granted the extradition.

A not less important amendment is that which allows the state which gets possession by extradition of an accused party to transfer him to a third country by a second extradition, with like consent.

This is undoubtedly intended to prevent in the future the application of the interpretation given by the United States to treaty of 1875, and which was accepted by the Belgian Government in the Collins case.

I have, &c.,

JAMES O. PUTNAM.

[Inclosure in No. 127.—Translation.]

AMENDMENT OF EXTRADITION TREATY BETWEEN BELGIUM AND ITALY.

The Government of His Majesty, the King of Belgium, and the Government of His Majesty, the King of Italy, having judged it expedient to modify, in certain respects, the extradition treaty of 15th January, 1875, have agreed upon the following declaration:

ARTICLE 1. Article 3 of the said treaty is amended as follows:

1st. The party extradited cannot be prosecuted or punished in the country to which the extradition has been granted, nor extradited to a third country for any crime or offense whatsoever, not named in the treaty of January 15, 1875, and previous to the extradition, unless, in either case, he has had a month's liberty to leave again the said country after his trial, and, in case of conviction, after having suffered his penalty, or after having been pardoned. Neither can he be prosecuted for a crime or offense specified in the treaty, previous to the extradition, but other than that which has been the motive of the extradition without the consent of the government which has delivered up the extradited party, and which may in its discretion require the production of one of the documents mentioned in article 9 of the said treaty. The consent of the government shall also be required to permit the extradition of the accused to a third country. Nevertheless such consent shall not be necessary when the accused shall voluntarily demand his trial, or to undergo his sentence, or when he shall not have left, within the above-named period, the territory of the country to which he has been delivered.

2d. Extradition shall never be granted for political crimes or offenses. The person who may be delivered for any other violation of penal laws, can, in no case, be prosecuted or condemned for a political crime or offense committed previous to the extradition, nor for any act having relation to such a crime or offense, unless he has liberty to leave the country again under the conditions above specified.

ART. 2. The present treaty shall take effect ten days after its publication in the methods prescribed by the legislation of the two countries.

The preceding provisions shall have the same duration as the treaty of January 15, 1875, to which they relate.

In faith of which the undersigned have signed, &c.

Made in double copies at Rome, December 30, 1881.

[Translation.]

Section 2 of article 3 of internation treaty of 1875 between Italy and Belgium.

"Nor can he be prosecuted or condemned for any of the crimes or offenses anterior to the extradition which are not foreseen by the present convention, or which have not been the occasion of the demand, unless after having been punished for the crime or offense for which he has been prosecuted or punished, he has neglected to leave the country within the delay of one month, or that he should again have returned to it."

No. 7.

Mr. Putnam to Mr. Frelinghuysen.

[Extract.]

No. 140.] LEGATION OF THE UNITED STATES,
Brussels, March 22, 1882. (Received April 6.)

SIR: I have the honor to send herewith a translation of the new proposed treaty between France and Belgium for the protection of literary property, also of trade and commercial marks. It has already been ratified by the Belgium Parliament. The French Government has not as yet acted upon it, the time for exchange of treaties having been extended to May 15 next.

* * * * * * *

In Belgium, as in France, dramatical and musical compositions and

representations have a large place in the popular entertainments, most of which are of French origin.

Protection of this class of French authors is a leading feature of the new treaty. The last preceding (of 1861) provided that in the absence of a contract establishing the terms upon which French dramatic and musical compositions might be represented in Belgium, compensation for each representation should be upon the basis of the following tariff:

Description.	At Paris and Brussels.	In towns of 80,000 inhabitants and upwards.	In towns of less than 80,000 inhabitants.
	Francs.	*Francs.*	*Francs.*
For pieces in four or five acts	18	14	9
For pieces in three acts	14	10	8
For pieces in two acts	10	8	6
For pieces in one act	6	5	4

M. Cattreux, in his pamphlet, gives the following illustration of the practical working of the tariff in connection with the Théâtre Monnaie of Brussels, the principal opera house in Belgium.

To give a striking idea of the working of this provision at our principal opera house to the prejudice of authors and dramatic composers, I will instance one of the last series of representations given by Patti. She appeared in Aida, Faust, Le Trouvère, La Traviata, Lucie, and Le Barbier. The four first works only gave a remuneration of 18 francs for the representations; that is, 9 francs for the composer and the same sum for the librettists. The total receipts were 20,000 francs for each representation, or 140,000 francs for the seven representations. All the composers and authors, creators of the works interpreted by the singer, have received altogether 72 francs; that is, 36 francs for the composers and the same for all the librettists together.

The new treaty abolishes this tariff and makes the matter of compensation one of contract with dramatic authors and composers.

The right of translation is reserved to the author by the new treaty for ten years instead of five, and three years instead of three months are granted for the first publication of a translation.

The minister of foreign affairs in his "Exposé des Motifs" recognizes the fact that the new treaty will lessen the power of the Flemish theater to draw from French sources, but finds compensation for their loss in the fact that the Flemish element will be compelled to rely more upon original Belgian productions, and so bring itself into closer sympathy with the national spirit.

I have, &c.,

JAMES O. PUTNAM.

[Inclosure in No. 140.]

Translation of proposed treaty between Belgium and France for protection of literary property and of commercial and trade marks.

ARTICLE 1. The authors of books, pamphlets, or other writings, dramatic works, musical compositions, works of design or illustrations of painting, sculpture, engraving, lithography, photography, and all other similar productions of a literary or artistic character, shall enjoy in each of the two states reciprocally the advantages which are or shall be granted by law to the proprietorship of works of literature or art; and they shall have the same protection and the same legal recourse against every encroachment upon their rights as if such encroachment had been made in respect to the authors of works published for the first time in the same country. Nevertheless

these advantages shall be reciprocally enjoyed only during the period of their right in the country of original publication, and the period of their protection in the other country shall not exceed that fixed by law for its own citizens. Property in musical works is extended to portions called arrangements, consisting of the principal phrases extracted from the same works; controversies which may arise as to the application of this clause shall be settled by the tribunals of the respective countries. Every privilege or advantage which may hereafter be accorded by one of the two countries to any other country in the matter of property in works of literature or art defined in the present article, shall be enjoyed as of full right by the citizens of the other country.

ART. 2. The publication in Belgium of classic extracts composed of portions or extracts of French authors is authorized, provided the collections are specially destined for educational purposes.

ART. 3. To secure for all the works of mind or art the protection stipulated in article 1 of this convention, and to enable the authors or editors of such works to prosecute before the tribunals of the two countries persons violating their rights, it shall be sufficient in order that such authors or editors may justify their rights of property, to establish the same by a certificate emanating from competent public authority of each country that the work in question is an original work, which, in the country where it has been published, enjoys legal protection against the pirating of the same, or its unlawful reproduction. For works published in France, this certificate shall be furnished by the office of the library of the minister of the interior, and legalized by the legation of Belgium at Paris; for works published in Belgium, it shall be delivered by the minister of the interior at Brussels, and legalized by the French legation.

ART. 4. The stipulations of article 1 shall be equally applicable to the representation or execution of dramatic or musical works published or represented for the first time in either of the two countries after May 12, 1854. The right of dramatic authors or composers shall be recognized according to the bases agreed upon by the two parties interested.

ART. 5. Translations made in either of the two countries of national or foreign works are expressly placed upon the same basis as the original works. These translations shall have, as such, the protection stipulated by article 1, in that which relates to their reproduction.

ART. 6. The author of every work published in either country shall have the sole right of publication for ten years from the date of original publication, subject to the following conditions:

1st. The author shall indicate at the opening of his work his intention to reserve the right of translation.

2d. The authorized translation shall appear complete within three years from the date of the original work.

3d. For works published in numbers it shall be sufficient if the reserved right of translation appear in the first number. Nevertheless, in relation to the limit of ten years specified in this article for the exercise of the right of translation, each number shall be regarded as a distinct work.

4th. Relative to the publication and representation by translation of dramatic works, the author who would reserve the exclusive right in regard to the subject of this article must have his translation appear or be represented within three years after the publication or representation of the original work.

In case any Belgian legislation relating to the right of translation shall be modified during the existence of the present convention, the new advantage which may be secured to Belgian authors shall be equally enjoyed by French authors. At the same time Belgian authors shall enjoy in France the fullest advantages which may be enjoyed from general legislation in favor of French citizens.

These respective rights shall be, moreover, subject to the conditions named in paragraph 2 of article 1.

ART. 7. The legal representatives and assignees of authors, translators, composers, painters, sculptors, lithographers, engravers, photographers, &c., shall enjoy the same rights as the present convention accords to authors, composers, designers, painters, sculptors, lithographers, engravers, or photographers themselves.

ART. 8. Notwithstanding the provisions of articles 1 and 5 of this present convention, articles taken from journals or periodical publications published in one of the two countries can be reproduced or translated in the journals or periodical publications of the other country, provided the source from which they are taken is indicated. Nevertheless this permission shall not extend to the reproduction in either country of articles from journals or periodical magazines published in the other, when their authors shall have formally declared in the journal or magazine when they shall have appeared that they have prohibited their reproduction. In no case shall this prohibition be applicable to articles of political discussion.

ART. 9. The introduction, the exportation, the circulation, the sale, and exposition, in either of the two states, of works or objects reproduced without authority, defined

by articles 1, 4, 5, and 6, are prohibited when the unauthorized reproduction comes from one of the two countries, or from any foreign country whatsoever.

ART. 10. In case of the violation of the provisions of the preceding articles, the pirated works shall be subject to seizure, and the tribunal shall impose the penalties fixed by the laws of the respective countries in the same way as if the violation had been committed to the prejudice of a work or a production of national origin. The printed works (les caractéres) constituting the piracy shall be ascertained by the tribunals of the respective countries according to legislation in force in each of the two states.

ART. 11. Books of lawful importation and other productions mentioned in the present convention coming from Belgium shall continue to be admitted in France, as well to remain there as for transit direct or for entry in the custom-house by the offices now or which may hereafter be open. If parties interested desire, books declared for entry shall be sent directly in France to the minister of the interior, and in Belgium to the entrepot of Brussels for the necessary verifications, which shall take place, at the latest, within fifteen days.

ART. 12. The provisions of the present convention shall not prejudice, in any degree, the right which may pertain to either of the high contracting powers to permit the surveillance or prohibition by measures provided by law, or by the internal police, of the circulation, representation, or exposition of every work or production in regard to which the competent authority may exercise that right.

Each of the high contracting powers reserves, moreover, the right to prohibit the importation in their respective states of books which, by their own internal laws or stipulations, entered into with other powers, are, or may be declared to be, pirated works.

ART. 13. The Belgian Government and the French Government shall take the necessary measures to prohibit the entry upon their respective territories of works which the Belgian and French editors shall have acquired the right to reprint, with the reserve that the reprints are authorized to be sold only in Belgium and in France and in other countries. The works to which this provision is applicable should bear upon the title-page and cover the words edition prohibited (*in Belgium*) in France and authorized for (*France*) Belgium and foreign countries.

ART. 14. Belgians in France, and reciprocally French citizens in Belgium, shall enjoy the same protection with their own citizens in everything which relates to property in trade or commercial marks, as well as designs and industrial and manufacturing models of every description.

The exclusive right of working a design or industrial or manufacturing model cannot have for the benefit of Belgian citizens in France, and reciprocally for French citizens in Belgium, a longer duration than that granted by the law of the country for its own citizens.

If the design or industrial or manufacturing model is public property in the country of its origin, it cannot be the object of any exclusive proprietorship in the other country.

The provisions of the two preceding paragraphs are applicable to trade and commercial marks.

The rights of Belgian citizens in France, and reciprocally of French citizens in Belgium, are not subordinated to the obligation to work the models or the industrial or manufacturing designs.

ART. 15. The citizens of either of the two countries who would secure in the other proprietorship in a mark, model, or design, must comply with the formalities prescribed for that purpose by the respective legislation of the two states.

Trade-marks to which articles 14 and 15 of this convention are applicable, are those which in both countries are legitimately acquired by manufacturers or traders, which they use; that is to say, that the character of a French trade-mark is to be determined by French law, as that of a Belgian mark is to be determined by Belgian law.

ART. 16. The present convention shall go into force at the same time as the commercial treaty and the convention as to navigation concluded to-day by the high contracting parties, and shall continue until 1st February, 1892.

In case neither of the high contracting parties shall have notified, a year in advance of the time of its expiration, its intention to suspend its operations, the convention shall continue to be obligatory for an additional year, and so on from year to year from the day when one of the parties shall have declared its purpose to put an end to the convention.

ART. 17. The present convention shall be ratified and the ratifications shall be exchanged at Paris before 1st February, 1882, and simultaneously with those of the treaty of commerce and the convention of navigation concluded this day between the high contracting parties.

In faith of which, &c.

Signed in double at Paris October 21, 1881.

No. 8.

Mr. Putnam to Mr. Frelinghuysen.

No. 153.] LEGATION OF THE UNITED STATES,
Brussels, May 24, 1882. (Received June 6.)

SIR: The Belgian Parliament adjourned last week. The election of the new Parliament, at which one-half the members of both the Senate and Chamber of Deputies are to be chosen, takes place on the 13th of June. The issue between the Liberal and Catholic parties, the only one that seriously enters into the canvass, is the school law of 1879, which entirely separates the church from the state, so far as its official relations with the state schools are concerned.

The public feeling over this question is as intense as was the feeling in the United States over the slavery issues in 1860. In my dispatch No. 51 I had the honor to present the attitude of parties toward the new school law and the methods adopted by the church authorities to compel its communion to send their children to the church schools, which have been established throughout the kingdom since the passage of the law of 1879.

I gave the following extract from a mandate of the bishops, indicating to their clergy the coercive measures to be adopted:

> The holy communion must be publicly refused—
> 1st. To instructors who, without special license or dispensation, exercise their functions in an official school.
> 2d. To active members who serve upon the school committees.
> 3d. To school inspectors, principal or cantonal.
> 4th. To all persons who publicly and actively favor the state schools and are their defenders and protectors.
> All to be first forewarned.
> 5th. When it is a question of administering the last sacraments, one rule must be observed. In extremes, extremes must be resorted to; so that if nothing else can be obtained it will suffice if the sick will promise to do everything which the church requires of him.

I also stated that a committee had been appointed to take testimony in the different districts in regard to the action of the clergy. That committee made its report at the recent session, stating it had taken the testimony of nearly five thousand witnesses in the different provinces.

The report clearly reveals the fact that the coercive programme of the bishops had been faithfully carried out. The Catholic minority of the committee declined to act upon it, and the Catholic members of Parliament declined to debate the report when presented.

The ministry interpreted their silence as confession of all its charges against the church authorities.

Both parties await the results of the election in June with intense interest. Should it restore the Catholic party to power the clergy will be reinstated to their former educational relations in the state schools. But it will not be an end of the conflict, which is here "irrepressible," and will end only when the victory of one of the parties shall be so decisive as to make hopeless a continuation of the struggle.

I inclose a translation of a leading article of one of the organs of the Catholic party, "The Brussels Courrier." This hostility to the school law and to the present Liberal ministry is met by the other side with equal determination.

The Liberals of Belgium are in sympathy with the most advanced ideas on the subject of the disunion of church and state. I would say

their hostility to any co-operation of the church with state administration has nothing to learn from the French school of liberals, while the Belgian clergy adhere to the Syllabus and its logical consequences with uncompromising spirit.

If the new school system shall be permanently established, the question suggests itself to an on-looker, how will religious education be supplied to the children of the peasantry when the clergy have no further relations with the state schools, as lay religious teaching, which, under our elastic system, has almost monopolized the religious education of our youth, is not admitted by the Catholic church? I apprehend the church of Belgium will find it difficult under the system of separation to maintain the education of its communion at its old standard, and increasingly so with each succeeding generation.

I have, &c.,

JAMES O. PUTNAM.

[Inclosure in No. 153.—Translation.]

[From the Brussels Courrier of May 22.]

WHY WE SHALL TRIUMPH.

The purposes of God are impenetrable, and we cannot with certainty conjecture whether He has for Belgium pity or justice.

Nevertheless, in recalling to memory the sacrifices of Catholics and the iniquities of liberalism, we cherish a profound sentiment of hope. How can she be condemned to be always subjected to persecution and to the yoke of the lodges; that Catholic Belgium which has poured out its purest and most generous blood to defend the temporal power of the Pope at Catesfilfardo, at Mentana, and upon twenty battle-fields; that Catholic Belgium which for twenty years has given its gold to sustain its Pontiff-king, the chief of two hundred millions of Catholics?

Yes, that Belgium which the episcopate dedicated thirteen years ago to the Sacred Heart, and which honors as its patron, Saint Joseph, given in these last times to be a protector of the universal church, shall she be condemned to be the slave of the lodges and of liberalism?

The thousands of children withdrawn from an atheistic education by the devotion of Belgian Catholics, will they not daily address their prayers to Heaven for the salvation of the nation and the victory of their generous protectors? A nation so nobly devoted to Catholicism cannot be left to perish by demoralization and atheism.

The minister who has unworthily driven away the Papal nuncio will, in his turn, be expelled from power by the electoral verdict.

How can he rise from his discredit, he who has shocked the public conscience by removing so many public functionaries? The hour has come when the country will call him to exact account for his action. Why has he dishonored Belgium in the eyes of Europe by driving away the representative of the Pope? Why has he dishonored and made discontented our army by taking from it its chaplains? Why has he held always suspended his threats over the head of his employés, whom he has compelled to sacrifice their children to an education *without God?* Why has he profaned our cemeteries, spirited away our student funds, robbed our churches and sacred houses, despoiled of their property so many pious foundations, instituted by liberty and charity for the solace of the poor, the disinherited by fortune? Why has he ruined our agriculture and wasted millions of the public treasure to unchristianize Catholic Belgium? Why has he covered the soil of the country with fortresses and atheneums of atheism or indifferentism? Why has he tortured our consciences by his traveling committee all over the country to terrorize our people? Why does he make a crime in our priests that which for them is a sacred duty? Who has constrained our clergy to refuse absolution to the abettors of the law of education without God? He. Who abolished the law of 1842? He. Who desires education without God? He. Who, notwithstanding the supplication of three hundred thousand fathers of families, determined upon that disastrous law to roll Catholocism into the ditch? He.

Yes, for that cause families are divided, the communes are in two hostile camps, and Belgians arrayed in two armies; and he is responsible for the sad fruits, the enmities, and discords it has created.

The electors will call to account this minister for his unwise expenditures, for all

the evils he has occasioned, for all the discords and disunions which he has sown, even in the smallest hamlets.

Like another Nero, this minister has, by his school law, lighted the fires of discord in 2,500 hamlets of Belgium, and to relieve himself of the load of hate with which he is menaced by the electors he calumniates the clergy and accuses them of having kindled the flames of dissension.

The clergy did not enter upon the struggle until the minister declared war. They created the free schools only after the suppression by the lodges [Masonic] of the schools founded under the law of 1842.

Now the fulfillment of their duty is made a crime, as is their resistance of an attack which it sought to avoid. Very well; honor to the clergy whom he would dishonor. If Belgium remains a free country, a Catholic country, it is to the clergy we shall be indebted. Without their resistance and devotion we should have perished through the public torpor.

The youth of Belgium had been irrecoverably devoted to indifferentism and atheism. Yes, you lodges, you Free Masons, you Liberals, we understand the reason of your fury against our priests; it is they who have united Catholic Belgium, to a man, to save their faith and their liberty. They have done their duty; we attest it to their honor. Had their resistance to the school law proved as serious an obstacle to the restoration of Catholics to power as it has proved an auxiliary, our fathers would still have besought the clergy to contend for their faith, perish what would.

Let us then pray as our fathers prayed and act as they acted. Let us triumph over the lodges and liberalism as they triumphed over the Josephism of the revolution and Orangeism. Let us act and pray as we think of the 13th of June and its consequences. It involves the salvation or the corruption of infancy and our youth. It involves the peace or spoliation of the clergy, repose, or expropriation of the religious communities; it involves public slavery or universal deliverance.

No. 9.

Mr. Putnam to Mr. Frelinghuysen.

No. 157.] UNITED STATES LEGATION,
Brussels, June 8, 1882. (Received June 22.)

SIR: The Belgian Parliament at its recent session so amended section 170 of the Civil Code relating to marriage as to authorize Belgian diplomatic and consular agents, under certain circumstances, to perform the marriage service between a Belgian and a foreigner.

The "Exposé des motifs" of the amendment presents an interesting view of the regulations relating to marriage in different countries. I have the honor to send herewith a translation of the amendment and of the material portion of the "Exposé des motifs."

I have, &c.,

JAMES O. PUTNAM.

[Inclosure in No. 157, from Exposé des Motifs of the amendment of section 170 of the Civil Code relating to marriage of Belgians in foreign countries.—Translation.]

Belgians can without difficulty follow the method prescribed by articles 47 and 170 of the Civil Code in countries where the civil authority is invested with the power to perform the marriage ceremony. Among such countries in Europe are France, Germany, Italy, Holland, Grand Duchy of Luxembourg, Roumania, and Switzerland.

Elsewhere many obstacles exist. In England parties desiring it may be married by the local authority. But we do not know that the civil marriage is customary in Ireland, in Austria-Hungary, and in Russia. It is not possible in Sweden, in Norway, and in Denmark, except in cases where the parties are of different religions.

Canonical marriage is still the rule in Spain, where the civil marriage is allowed only in the case of dissenters, and in Portugal the celebration of marriage of Catholics is by the church, by virtue of a commission from the state. Of countries where the want of authority in our consuls creates most lamentable situations may be reckoned the Turkish dominions. There persons who do not follow the law of the

Prophet cannot regularly marry, the civil state of Turkey being based upon the Koran, which forbids marriages between Musselmans and Christians. There is the nuptial benediction which a minister of one of the tolerated systems of worship (Greek, Armenian, or other) sometimes consents to give. But what guarantees can such marriages afford in view of our own legislation, celebrated as they usually are without any previous formality?

The difficulties which marriages encounter are evidently of a nature which tend to create illegal relations between Belgians living in Mahomedan countries. Do they not for the most part find themselves placed between the alternative of forced celibacy or of irregular life? No less obstacles are in the way of the marriage of our citizens in the Barbary States, on the Mediterranean, and in Egypt. The Greek laws impose on the clergy the responsibility of conducting marriages in due form.

Unions are contracted in the Hellenic Kingdom according to the rules of the communion to which the parties belong. If they profess different faiths, the nuptial benediction is given them by the Oriental church, upon the condition that their children shall be educated in the religion of the orthodox party.

No country of the east, in this matter of marriage, can be compared with China. Certain ceremonies performed by the family of the contracting parties without the participation either of the magistrate or of the clergy, and the exchange of pieces containing, besides the names of the parties, certain particulars relative to their birth, are sufficient in the Celestial Empire to constitute a perfect legal union. No official act is drawn up, no public registering. Can one imagine how difficult it would be to furnish in Belgium, conformable to articles 47 and 171 of the Civil Code, proof of a marriage celebrated after those patriarchal usages? In Japan the rule as to strangers has been lately modified. At the request of a consular agent, the authorities consented in 1876 to marry two French with Japanese citizens.

Although the laws of different States of the United States of America authorize justices of the peace and the town clerks to receive declarations from those who wish to dispense with the services of a clergyman, an immense majority of the marriages are celebrated in the churches or in temples, either according to the decree of the Council of Trent, as at New Orleans, at Saint Louis, and Detroit, or in conformity with the ancient rule in force throughout Christendom before said decree—that is to say, without requiring publication of bans or of domicile.

We will add, in conclusion of this summary of information received from our foreign representatives, that in Mexico and in the Republics of Guatemala and of Venezuela marriages take place according to the rules established by the civil authority, while they remain subject to rules prescribed by the Catholic Church in Nicaragua, Ecuador, in Peru, Chili, La Plata, Brazil, and Uruguay.

Non-Catholic inhabitants of the last country may sometimes apply to justices of the peace. As a *résumé* obligatory in some countries, admitted in special cases in others, marriage before the civil authority is impracticable for Belgians over the greatest part of the globe. Those who reside in remote countries have, in general, no other resource than to ask, *where circumstances permit*, the nuptial benediction of a clergyman. Now, the inconveniences to which a party is exposed who can marry only according to the rights of some confession are numerous by reason especially of the great variety of sects of which the most widely extended systems of religion are composed. In one place the parties are required to pay enormous fees; elsewhere they are forced to undertakings which are contrary to the liberty of conscience, or the clergy, resting upon canonical obstacles, refuse to lend their offices.

For example, before whom can a marriage take place in a Catholic country if one of the parties is a divorced person, a Jew, or belongs to no positive religion? How will the parties proceed who profess a system of faith which does not exist in their place of residence? Where will be the guarantees which the parties have a right to require in this the most important act of their civil life? Is it admissible, in view of these facts, there where the clergy does not observe the formalities prescribed by the Council of Trent, that persons be married by a priest to whom they are unknown? Is it not to be feared, in certain countries at least, that questions will arise based upon the want of the sacred character of the party who shall perform the ceremony? And may not the church registers be stolen, mutilated, or destroyed either in time of insurrection, or by fire, flood, or earthquake?

This situation demands the extreme solicitude of the government. If it encourages its young men who have made a specialty of certain studies to establish themselves among nations with which we are interested to extend our relations, if it invites Belgian commerce to found houses in remote countries, and to create new markets, and so increase the wealth of the country, it is incumbent upon it to see that its citizens who so expatriate themselves may by an act valid in Belgium constitute a legitimate Belgian family.

The "Exposé des Motifs" then proceeds to state that in taking this step it is but following the example of England, Germany, Italy, Holland, and Switzerland; that this right to perform the marriage ceremony conferred on its diplomatic and consular

agents is limited to the marriage of its own citizens with foreigners, and in countries where the local civil authorities do not afford desirable guarantees; that it is further limited to cases specially authorized by the minister of foreign affairs (Belgium). It further recognizes the fact that, as a matter of law, this new provision may not be deemed legal in the countries where they are made; but it adds, "while this may so be, a very important point is gained, from a moral point of view, since authority is given to substitute for illegitimate relations a conjugal union perfectly valid in Belgium, and which all the members of its family can sustain when they return to their country."

It further states that upon the passage of the proposed law the diplomatic and consular agents who may be authorized to perform the marriage ceremony will be instructed—

1st. Not to marry a Belgian with a foreigner until he has ascertained whether the parties find it impossible to be married according to the local usages;

2d. To inform the parties that their marriage, if performed at the chancellerie, is not necessarily valid except in Belgium; and

3d. To require, if there be occasion, of the foreigner to justify her capacity to marry under the laws of her own country, and that to facilitate that examination the representatives of Belgium would be furnished with the laws relating to the marriage of women of the different countries of the world.

Amendment of article 170 *of Civil Code.*

1st. Marriages in a foreign country between Belgians and between Belgians and foreigners will be celebrated with the forms in use in such countries.

2d. Marriages between Belgians can also be celebrated by the diplomatic agents and the consuls of Belgium, conformably to Belgian laws.

3d. Diplomatic agents and consuls of Belgium can celebrate marriages between Belgians and foreigners in cases where special authorization has been granted by the minister of foreign affairs.

4th. Marriages are to be published, conformably to Belgian laws, in Belgium, by the officers of the state civil, and by the diplomatic agents and consuls in the chancelleries where the union shall be celebrated.

5th. Marriages celebrated in the forms prescribed by numbers 1, 2, and 3 of this law shall be valid if the Belgians have not violated the provisions prescribed, under the penalty of marriage being void, in Chap. I, Title V, Book I, of the Civil Code.

No. 10.

Mr. Putnam to Mr. Frelinghuysen.

No. 159.] LEGATION OF THE UNITED STATES,
Brussels, June 15, 1882. (Received June 29.)

SIR: I have the honor to state that the election of the 13th instant, referred to in my dispatch No. 153, resulted in favor of the liberal party.

Ghent, which elects four senators and eight deputies, proved to be the key of the situation.

At four o'clock in the afternoon it was announced that the Catholics had elected their candidates. Later advices assured the success of the ministerial party by a majority of sixty in that city.

The demonstrations which followed on the part of the liberals at the capital during a large part of the night was of the most enthusiastic character. The streets were thronged with people parading with bands of music and illuminations. There was apprehension of disturbance, and a portion of the civic guard was called out under arms and distributed in different parts of the city, but no violent demonstrations occurred.

The liberals have a small increase of strength in both houses. Their majority will be six in the new senate, instead of four, and of eighteen in the chamber of deputies, instead of fourteen, as in the last Parliament. This secures the continuation of the general policy of the liberal government.

The school law of 1879 will be maintained. This law is regarded by the Catholic party the most dangerous of all the liberal measures, not only for their political ascendancy, but for the maintenance of the Catholic faith among the peasantry.

It will compel Catholics to accept the secular school system or to continue at very heavy expense their church schools. The centralization of the educational department in the government, instead of giving the control of state schools to the several communes, will be maintained.

It was avowed in the canvass by the leader of the Catholic party that should it succeed at the election the office of minister of instruction would be abolished. The suspension of diplomatic relations with the Vatican will doubtless be continued. They would have been resumed had the Catholic party succeeded.

The liberal party has been heavily weighted in this canvass by the radicalism of some of its members and candidates.

The bulk of the party are not in favor of any considerable extension of the suffrage.

A portion of its radical element demanded universal suffrage; another portion a suffrage based upon an educational test.

The more radical element is organized in a permanent body called "La Ligue pour la Réforme Electorale." The extreme attitude taken by some of the leaders of this organization on the suffrage question, involving a revision of the constitution in that respect, gave alarm to many of the moderates, and in the capital led to an "independent" movement, with which the Catholics allied themselves and seriously imperiled the success of the liberal candidates. Their majority was reduced by this action from 4,000 to 1,000 in Brussels.

The liberal party has now as much to fear from its own internal divisions on the suffrage question as from the opposition. The rapid growth of the large towns and of manufacturing centers, where the liberal strength principally lies, and the stationary population of the rural districts, where the clerical influence prevails, favor the continued ascendancy of the liberal party. On the other hand, the radicalism of a minority of the party alarms the more conservative portion, and it will tax the the wisdom of the ministry to the utmost to harmonize the elements.

The liberal government has now two years to solidify its power. It will then be again subjected to the ordeal of a general election.

I have, &c.,

JAMES O. PUTNAM.

No. 11.

Mr. Fish to Mr. Frelinghuysen.

No. 15.] LEGATION OF THE UNITED STATES,
Brussels, July 27, 1882. (Received August 10.)

SIR: In my dispatches from Berne I had occasion frequently to bring to your predecessor's notice the abuses and dangers of assisted emigration. In one of those dispatches I cited a writer on political economy who advocated assisted emigration as the principal panacea for Ireland's woes.

What was then the mere proposal of a voluntary contributor of the

press is now in a fair way to be enacted on the statute book of Great Britain.

The London Times of 21st and 22d instant gives an account of the debate in the House of Commons committee of the whole on the second reading of the new government clause of the "arrears of rent (Ireland) bill," empowering guardians of the poor to borrow money for the assistance of emigration. The sum which is to be allowed to each emigrant is £5. and although it was maintained by many of the speakers that such a sum was inadequate, and that the emigrant should be provided with something beyond the bare cost of transportation, the bill was passed to a third reading. The cable, the press, and the legation in London will advise you before I can of its ultimate fate.

You can judge better than I can what the effects of this measure will be upon the immigration we will receive by virtue of its workings. Mr. Trevelyan, the chief advocate of the emigration scheme, is reported as saying:

> The object of it was to encourage emigration in overpopulated districts. To do more than make a grant in aid would be demoralizing. A sum of even less than £5 would encourage emigration. The guardians had ascertained that they could emigrate for £3 4*s.* ($16.06) a head. * * * He had shown on the previous evening that the expense of emigrating a person was not quite equal to that of maintaining him at the expense of the parish for a whole year.

On the very day that this appeared in the London Times the Philadelphia correspondent of that paper reports that the Russian refugee relief committee at Philadelphia shipped sixty back to Liverpool, being unable to provide for them.

On the 24th instant the Times' Philadelphia correspondent cabled the text of a letter from the president of the relief society to the Mansion House committee, who had been instrumental in forwarding the emigrants alluded to. The letter states:

> Fully alive to our responsibilities in the matter, and being earnestly desirous to do our share of work, we solemnly protest that a continuance of your present course will produce useless suffering and distress. To avoid this we send back a number of destitute immigrants, and to this policy we shall steadily conform. To do otherwise would be to multiply the starving wretches during the approaching winter, a consequence we will do our best to avoid.

Is it to be expected that the inmates of Irish poor-houses will be able to succeed if landed penniless on our shores? I make no distinction against the Irish; I have shown the misery that assisted emigration entailed upon the Swiss; the distress amongst the Russian emigrants assisted by the mistaken philanthropy of the Mansion House committee is attested by the letter above cited. In regard to the scheme proposed by Parliament to assist emigration from Ireland, I cannot do better than quote the remarks of Mr. T. O'Connor, himself an Irishman, who has studied the practical workings of emigration, upon the discussion of the bill in question:

> The government had announced their willingness to take advantage of voluntary agencies; which meant that they would pay £5 to get the tenant out of the country, and leave the rest to Mr. Tuke. In so doing the government of course surrendered the most important part of the business into Mr. Tuke's hands. No doubt that gentleman was inspired by the best motives, and had done good service to Ireland, but the government were pursuing a course that was radically wrong, and they would find that the question could not be settled satisfactorily by simply transferring Irish paupers into white slaves in America. Every country to which those emigrants were sent had a right to demand that they should be a source of wealth and not of poverty to the land of their adoption, and that they should not be handed over to any employer of labor who should take them on Mr. Tuke's terms.

In the interest of these poor emigrants, as well as in that of the American tax-payer, it is to be hoped that Mr. O'Connor's presentiments as to their future lot may not be realized. It is, however, incumbent on us, if we do not desire to assume the responsibility and expense of their support, to legislate to prevent them from being cast upon our charity.

I have, &c.,

NICHOLAS FISH.

No. 12.

Mr. Fish to Mr. Frelinghuysen.

No. 17.] LEGATION OF THE UNITED STATES,
Brussels, July 31, 1882. (Received August 14.)

SIR: The sending back of destitute Russian emigrants is attracting attention, and if followed by the return of considerable numbers of those of other nationalities, will serve to check the abuses now being carried on. The weak points in the present system of returning objectionable emigrants are that there is a lack of uniformity in its operation, and that the expense is borne by the American public, either in the way of taxes or by voluntary contributions.

The inclosed extract from the "Étoile Belge" of this morning gives an account of the return of forty destitute Russian Israelites by the Pennland. In it there is a tacit reproach to America for not keeping them, while the refusal of the Russian consul at Antwerp to recognize them as Russians, on the ground of having lost their nationality by emigrating without permission, is described as "cruelly correct." The tacit reproach to the United States is thoroughly in accord with the prevalent European sentiment that anything or anybody is good enough for America. The article in the "Étoile Belge" is taken from the "Précurseur", of Antwerp, and is reproduced in the "Independence Belge" of this morning without the invidious comments of the original article.

The Antwerp Israelite association deserves credit for aiding their co-religionists in proceeding towards their native land. It remains to be seen whether the Russian officials will permit them to return to their native country; and this question may give rise to a controversy between Germany and Russia which will furnish at least one of the European powers an opportunity of testing the advantages derived from having foreign paupers cast upon its territory.

I have, &c.,

NICHOLAS FISH.

[Inclosure in No. 17.—Extract from the Étoile Belge, July 31, 1882.—Translation.]

Some forty Russian Israelites arrived yesterday at Antwerp on the Pennland, of the Red Star Line. These unfortunate people, driven from their country by the cruelties of persecution, sought a refuge on the hospitable soil of the New World, but, totally destitute, they found it impossible to establish themselves.

It is in this condition that America sends them back to us.

The Russian consul at Antwerp states that his country people are totally without means of existence, and he adds conscientiously that having emigrated from Russia to America without permission of the Russian Government (emigration will go on nevertheless!), they have lost their Russian nationality, and consequently he has nothing to do with them. He therefore addresses them a cruelly correct *nescio vos.*

The exiles were, by the assistance of the Israelite association of Antwerp, lodged at No. 14 Canal St. Jean, and yesterday morning were shipped to Cologne, thence to be forwarded to the Russian frontier.—[From the Précurseur of Antwerp.]

BOLIVIA.

No. 13.

Mr. Adams to Mr. Frelinghuysen.

No. 92.] LEGATION OF THE UNITED STATES,
La Paz, February 27, 1882. (Received April 17.)

SIR: I have the honor to report that I have carried out the instructions contained in dispatches Nos. 49 and 51 in relation to the proposed Congress at Washington, and submit the correspondence which has taken place between the minister of foreign relations of Bolivia and myself upon the subject.

There can be no doubt that the invitation tendered will be formally accepted by Bolivia in good time.

These instructions, although dated in November last, did not reach me until February 1, as formerly reported through Mr. Trescot, and then with the request to delay the invitation until further notice from him. In his letter of January 30, however, received by me February 14, Mr. Trescot withdraws his request for delay and suggests that the invitation be now tendered.

These circumstances I beg to submit as an excuse why the instructions were not complied with sooner.

I have, &c.,

CHARLES ADAMS.

[Inclosure 1 in No. 92.]

Mr. Adams to Señor Zilveti.

LEGATION OF THE UNITED STATES,
La Paz, February 16, 1882.

SIR: Referring to our interview of yesterday, during which I had the honor to acquaint your excellency, verbally, with the contents of a dispatch received by me from my government and with the instructions therein contained, I have now the pleasure to transmit a true copy of the said dispatch and have the distinguished honor, formally and officially, and in the name of the President of the United States, to tender his invitation through you to his excellency the President of Bolivia to send two commissioners provided with full powers to an American Peace Congress, to be held in the city of Washington on the 22d day of November, 1882, for the purpose of deliberating and counseling with the commissioners of all other independent countries of America, who have likewise been invited, upon such matters as you will please find set forth by the Secretary of State of the United States in the inclosed dispatch, and which no words of mine could more fully elucidate.

I shall be gratified to be informed as soon as it may be convenient that after due consideration this invitation has been accepted by his excellency the President of Bolivia in the same spirit as it has been tendered, and I may be permitted to predict that, by means of this congress, the bonds of union and amity between the different American countries cannot fail to be augmented and firmly secured.

I take, &c.,

CHARLES ADAMS.

[Inclosure 2 in No. 92.—Translation.]

Señor Zilveti to Mr. Adams.

MINISTRY OF FOREIGN RELATIONS OF BOLIVIA,
La Paz, February 24, 1882.

SIR: On the 18th instant I had the honor to receive your excellency's note of the 16th. with which you were kind enough to transmit a copy of a dispatch from the

Department of State of the United States to the legation which your excellency so worthily occupies, intended to invite the Government of Bolivia to an American Congress which shall meet at Washington on the 22d of November of this year.

Consequently, your excellency has been pleased to invite my government officially to send its representatives to said congress, which is called to deliberate upon matters affecting the future peace and prosperity of all the nations of the continent.

This very important dispatch received from your excellency will be brought to the knowledge of my government, and I am sure it will be appreciated as it deserves, for the high ends which this government has in view to the benefit of America and the stability of its governments, as well as for the like high propositions with which the most excellent government of the United States initiates the meeting of the congress at Washington.

It shall be very agreeable to me to transmit to your excellency the reply of the Government of Bolivia.

Meanwhile, &c.,

P. JOSÉ ZILVETI.

BRAZIL.

No. 14.

Mr. Osborn to Mr. Frelinghuysen.

No. 12.] LEGATION OF THE UNITED STATES,
Rio de Janeiro, February 9, 1882. (Received March 13.)

SIR: On the 3d instant I had an extended interview with the minister of foreign affairs, Senhor F. Franco de Sá, regarding the proposed Congress of American States to be held in Washington in November next, to which the Department instructions numbered 8, 9, and 10 refer.

The interview lasted fully an hour, and was of an exceedingly agreeable character. After the usual interchange of courtesies I explained to the minister the purpose of my visit, and then proceeded to read to him instruction No. 8.

The reading progressed quite slowly and was frequently interrupted with questions, explanations, and discussions.

Senhor Franco de Sá seemed much interested in the subject, paying the strictest attention to the language of the instruction and to what I had to offer, and his frequent expressions of approval as well as his manner convinced me that the project which I was presenting had his entire approval. He seemed especially impressed with my presentation of reasons in support of a cordial co-operation in the movement by Brazil, wherein I followed generally the line marked out in No. 9; and as he appeared desirous of knowing something touching the details of the proposed Congress, I made known to him the contents of so much of No. 10 as seemed proper, and left with him a memorandum on that branch of the subject.

As directed, I left with the minister a copy of No. 8, and forwarded to him, soon after my return to the legation, a brief note in which, in the name of the President, I formally invited His Majesty the Emperor to send two representatives to the Congress.

As yet, I have no answer to my note; but I shall expect one soon, as the minister assured me that the subject should receive prompt consideration. I know that the Emperor has spoken approvingly of our purposes in this connection, and I cannot doubt that the response will be satisfactory.

I have, &c.,

THOMAS A. OSBORN.

No. 15.

Mr. Osborn to Mr. Frelinghuysen.

No. 13.] LEGATION OF THE UNITED STATES,
Rio de Janeiro, February 10, 1882. (Received March 13).

SIR: Since writing my dispatch No. 12 of date yesterday, in which I gave an account of my interview with the minister of foreign affairs, Senhor F. Franco de Sá, touching the proposed Peace Congress of American States, I am in receipt of a note from that gentleman in response to mine of the 3d instant inviting the co-operation of Brazil, a copy of which, accompanied by an English translation, is herewith inclosed.

It will be seen that my predictions as to the character of the answer were correct. The Government of Brazil has accepted the invitation, and I am not without reasons for knowing that His Majesty the Emperor looks forward to the assembling of the Congress with much interest, and that he hopes that great good may result therefrom.

It is more than likely that both of the representatives of this government will have a knowledge of the English language, but I am not aware that any particular names have yet been mentioned in that connection.

I have, &c.,

THOMAS A. OSBORN.

[Inclosure 1.—Translation.]

Senhor F. Franco de Sá to Mr. Osborn.

MINISTRY OF FOREIGN AFFAIRS,
Rio de Janeiro, February 8, 1882.

I had the honor to receive the note that Mr. Thomas A. Osborn, envoy extraordinary and minister plenipotentiary of the United States of America, was pleased to address to me, on the 3d instant, confirming the invitation which, in the conference of the same day, he made in the name of His Excellency the President of the same States, to the effect that Brazil may send two commissioners to the Congress to be held at Washington the 22d of November to consider and discuss the means of averting war between the States of America.

In response to this note I have the satisfaction of communicating to Mr. Osborn that His Majesty the Emperor, in accord with his ministers, resolved to accept the said invitation, and that, consequently, Brazil will be represented at the Congress that is projected, in conformity with the terms of the dispatch of the American Government of which you, Mr. Minister, had the goodness to leave me a copy.

I approve, &c.,

F. FRANCO DE SÀ.

No. 16.

Mr. Frelinghuysen to Mr. Osborn.

No. 22.] DEPARTMENT OF STATE,
Washington, March 14, 1882.

SIR: I have received your No. 13, of the 10th ultimo, and am much pleased to see the evidence of the good will borne by Brazil to the United States which is contained in the imperial government's prompt acceptance of the invitation to send representatives to an American Congress in November next.

I am, &c.,

FRED'K T. FRELINGHUYSEN.

No. 17.

Mr. Osborn to Mr. Frelinghuysen.

[Extract.]

No. 21.] LEGATION OF THE UNITED STATES,
Rio de Janeiro, March 23, 1882. (Received April 19.)

SIR: In my No. 19 I acquainted you, in a brief dispatch, with the substance of a statement made in the Senate by the minister of foreign relations, Senhor F. Franco de Sá, touching the proposed Peace Congress of American States, and I now have the honor to inclose the text of the discussion as it appeared in the official organ.

* * * * * * *

Senator Junqueira, who presented the inquiry, has expressed an opinion regarding the Congress, which prevails to a considerable extent. He seems to think that the movement would prove futile unless the action of the Congress should include means of enforcing its determination, and that, therefore, there is danger that the Government of Brazil may become involved in international disputes in which they have no concern.

As above intimated, Senator Junqueira is not alone in this view of the question, and I fear that it is shared even to a limited extent by the minister of foreign relations. That European influence has been quite actively exerted for the purpose of making this the opinion of the country, will not admit of a doubt, and it would be strange, indeed, in view of all the circumstances, if these efforts should have been entirely without avail. The frequent references of late in the press to the great and growing power of the United States, interspersed with occasional comments regarding our foreign policy, in which has generally figured a scheme for the absorption of one or more of our American neighbors, have tended somewhat to excite the fears of the timid, and have furnished a topic for those who have been interested in kindling the jealousies and the prejudices of the weak.

From the reply of Mr. Franco de Sá, the foreign minister, I extract:

> Mr. Frelinghuysen has declared, in a dispatch to the envoy extraordinary of that Republic [the United States] near the Government of Chili, that the announced Congress was indefinitely postponed. The Government of Brazil has not yet received this information of the act of the American Government, probably because the minister accredited here has not, as yet, received a dispatch on the subject.

And further on he says:

> The Congress, however, as I have already declared, has been postponed indefinitely, and it is presumed that an appropriate communication will be made to us soon.

The positive character of the minister's statement tended to impress me with the belief that the government were desirous of being relieved from their promise to participate in the Congress, and I, therefore, during a visit which I made to the minister on the 15th instant, delicately intimated a desire to talk with him touching his declaration. He stated that he had read your instruction to Mr. Trescot, modifying the instruction of your predecessor, and Mr. Blaine's letter to the President, and gave me to understand that his conclusion regarding the postponement was based upon these documents. I stated to him that I had received no communication from my government indicating a disposition to either withdraw its invitation or to postpone the Congress, and that if there was any such purpose in view, I did not doubt that I would be promptly advised of it. In response to a remark from him, indicating some anxiety for further and more positive information, I then told him that I would communicate with you fully, and that I thought I could safely

assure him that I would be advised by telegraph whether the Congress would be held as originally proposed or not.

While Senhor de Sá did not intimate that his government were desirous that the Congress should not be held, still I left with the impression that he would prefer to be advised that the Government of the United States had so determined. If the determination, however, should be otherwise, I am inclined to the belief that this government will be represented in the Congress. The character of their participation can be easily anticipated from a reading of the remarks of the minister.

I also inclose an English translation of the discussion in the Senate.

I have, &c.,

THOMAS A. OSBORN.

[Inclosure in No. 21.—Translation.]

REUNION OF A CONGRESS IN WASHINGTON IN NOVEMBER.

Senhor JUNQUEIRA. In the Diario Official of the 3d instant I read the following:

"The imperial government has been invited by the United States of North America to send two commissioners to the Congress which is to be opened at Washington the 22d of November of the current year, to consider and discuss the best means of averting war between the American nations. The imperial government has accepted the invitation."

In what light will the Senate treat this important question? The Government of the United States of North America invited the nations of this continent to send representatives to a Congress that is to be held in the capital of those States in November of this year, for the purpose of discussing and discovering the means of preventing war between the American nations. The imperial government accepted this invitation.

If it was a question of a particular society, of a reunion of philosophers, having for its object the prevention of war, we should not, surely, be opposed, because it is always laudable to commend the efforts which are made to avert such a calamity. But this treats of governments, and all the world understands that a reunion of this order, so ostentatious, has not platonic sentiment for its sole aim, but that it has in view something more positive and more real.

Serious steps are to be taken on the part of the American governments in the sense of averting the calamity of war on our continent, and therefore it shall be necessary to have the exacted obligations, without any convention, any agreement, of whatever may be determined upon; so, as I have stated, it will not pass as a manifestation wholly platonic.

The noble minister of foreign affairs being present, I ask of his excellency some explanations, and I shall place my petition (*requerimento*) upon the table if he does not prefer an adjournment.

I have for this purpose requested a copy of the invitation referred to which was addressed to us by the Cabinet at Washington.

As I foresee some perils in the course which may possibly be adopted, I consider it to be the duty of a representative of the nation to cause debate on that question to be opened, in order that our destinies may not be decided entirely without our having been heard, and a treaty or agreement formed which binds the nation and may hereafter cause us great sacrifices.

The Senate understands that it is a very difficult matter to avert war between the American States. Unfortunately, at the present time, there still exists a great war between the Republics of Peru, Bolivia, and Chili.

In the Cabinet at Washington the post of foreign affairs was directed by Mr. Blaine, no doubt a distinguished gentleman and diplomatist, who, according to the journals, placed himself at the head of a policy somewhat reckless. It was this gentleman who addressed the invitation to the imperial government as well as to the other American governments.

I request the noble minister of foreign affairs if, Mr. Blaine having withdrawn from the Cabinet, his successor has confirmed the invitation extended to the imperial government, or if the invitation has been withdrawn, or postponed *sine die*.

I read in an accredited gazette—*Le Brésil*—now published in Paris, that the successor of Mr. Blaine will not pursue the same line of policy. The article I refer to opens with the following words—having for epigraph Chili and Peru. (Reading:)

"Eight days ago we received from the United States a serious announcement; Mr. Blaine, Secretary of State, before tendering his resignation, invited all the American

States to meet in convention in Washington, the 30th of November of this year. We learn with lively satisfaction that Mr. Frelinghuysen, the new Secretary of State, has recalled this fantasy of his predecessor. He remembered, at the time, that Washington, in his famous a dress to the American people, on withdrawing from power, among other counsels and warnings respecting the future, insisted upon the necessity, for the welfare of the republic, of abstaining scrupulously from what he called, with so much energy, entangling alliances."

The patriarch of American independence gave this counsel to his countrymen, that external questions might not involve them in grave complications. I, also, believe this should be our policy; endeavor to maintain our position, disposing the means necessary for our defense.

But to me it does not appear that it is desirable that we should by any form concur in an exacted obligation, (*sancçaõ penal*), that is, with coercive measures, that war shall not arise between two American States, in some of which it is very easy.

Consequently, foreseeing that Brazil might be seriously compromised by the result, I take the liberty of making these observations, believing it is not entirely *inapropos* that the legislative power, the representatives of the nation, know just to what point the imperial government desires to go in this matter, and if, by chance, the acceptance of the invitation referred to, notwithstanding the negotiations are to be treated *ad referendum*, could produce difficulties, and likewise grave embarrassments to the empire.

My resolution is couched in these terms. (Reads:)

"I request that, through the minister of foreign affairs, the government be requested to furnish a copy of the invitation of the Cabinet at Washington to a Congress which is to meet at Washington, in the month of November next, to discuss the best means of averting war between the American nations."

The nations sometimes, in good faith, and with the most sincere intentions, assemble to adjust in a similar manner their differences; they have always the laudable desire to preserve peace between them, but the general result accomplished by these congresses is known.

The Senate has record that in 1854 France and England entered into various understandings for the purpose of maintaining the integrity of the Ottoman Empire; that is to say, to maintain peace in Europe. Yet in consequence of this convention celebrated between France and England, there followed in a short time an armed struggle known as the war of the Crimea.

I do not wish that the same should occur in my country; I do not desire that in any eventuality we accept compromises which bring to us embarrassments. Therefore, if the noble minister would give us the satisfactory explanations, I would withdraw my petition.

Mr. FRANCO DE SÁ (minister of foreign affairs): Mr. President, I do not see any inconvenience in approving the petition of the noble senator of Bahia. I can at once give the explanations his excellency desires. In fact, the notice in the *Diario Official* was ordered published by the foreign office. Brazil received, and accepted, an invitation of the American Government when the minister of foreign affairs was Mr. Blaine, whose policy I cannot say was reckless, as asserted by the noble senator, but rather somewhat active and enterprising. But his successor, Mr. Frelinghuysen, is pursuing a course more moderate and more in conformity with the traditions of those states, a policy outlined in the counsel given by Washington, its founder, in the celebrated document known as the farewell address.

Mr. Frelinghuysen has declared in a dispatch to the envoy extraordinary of that republic, near the Government of Chili, that the announced Congress was indefinitely postponed. The Government of Brazil has not yet received this information of the act of the American Government, probably because the minister accredited here has not, as yet, received a dispatch on the subject.

The imperial government accepted the invitation which was addressed to it, because it understood that it was not right to refuse to take part in a solemn reunion in which, under the initiative of the government of a great nation, the general interests of America are to be discussed, to the end that the humanitarian and commendable desire to avert civil and international wars prevail.

But in this invitation or document were two important declarations of the government of the United States. First, that the base of discussion of the labors of the Congress shall be, that all international difficulties should be settled by arbitration; and, second, that the Congress shall not occupy itself with any pending question, such as Panama, and, much less, the republics of the Pacific.

We do not go, therefore, to discuss anything difficult or delicate that actually exists; we go solely to discuss conditions which shall serve for the future to avert the development of grave divergencies and conflicts between American nations. For my part, I say frankly to the Senate, that I do not repose great confidence in the practical efficacy of the Congress under discussion.

It is an idea which already has been advanced many times by philosophers and pub-

licists, which has been attempted to be realized in Europe through the initiative of some sovereigns, but has not succeeded in the Old World.

We shall, perhaps, in this instance be more fortunate; but in any event, the great embarrassment will be that indicated by the noble Senator—the way of practically executing the stipulations of such treaty as may be celebrated, should any of the nations who sign desire to violate it. It will be necessary to make war to avert war.

Nevertheless, gentlemen, not only because of respect for the government that sent us the invitation, but also because some benefit might result from this Congress, the imperial government accepted the invitation.

Without doubt the interchange of views, and the discussions between the representatives of the different governments, would result, at least, in strengthening the tie of sympathy between nations. If no other advantages should be gained, it is certain that this one would not be slightly appreciated.

It would be very desirable to have all difficulties arising between us decided by arbitration, as was done recently in the controversy between Chili and the Argentine Republic relative to the territory of Patagonia.

We have before us this example which leaves the hope that, at least in a few or in many cases, this way of counseling and adjusting by an act so solemn as the decision of a Congress shall be respected by the nations who shall have concurred in it.

These were the motives which moved us to accept the invitation, aside from the deference due to the Government of the great American Republic.

It appeared to us that there could be no impropriety in it, seeing that the American Government expressed and reiterated the declaration that pending questions should not come before this Congress.

The Congress, however, as I have already declared, has been postponed indefinitely, and it is presumed that an appropriate communication will be made to us soon.

This is all I have to say to the noble Senator.

No. 18.

Mr. Osborn to Mr. Frelinghuysen.

[Extract.]

No. 30.] LEGATION OF THE UNITED STATES,
Rio de Janeiro May 17, 1882. (Received June 16.)

SIR: The long-continued controversy between Brazil and the Argentine Republic, touching their boundaries, has recently assumed a rather threatening aspect. The territory in dispute lies on the western border of the Brazilian province of Parana, between the rivers Iguazu and Uruguay, and covers an extent of eight hundred square leagues. It is far removed from the civilized settlements, being inhabited only by a few wild Indians, and is covered by dense forests of valuable timber.

Pending the controversy the two governments have tacitly assented to the non-exercise of sovereignty over the disputed territory by either, and the present commotion is caused by some action of the Argentine Government, which it is alleged looks to the abandonment of its former policy. It seems that by a law of the Argentine Republic the Missions territory has been transferred from the provincial to the national domain, and by executive decree has been divided into five administrative departments. According to the Argentine claim this territory includes the district in dispute.

The adoption of these measures caused considerable anxiety here, and resulted in the sending of an instruction by the government to their minister in Buenos Ayres, having in view the presentation of a protest against what appeared to be the contemplated action. For reasons not known to the public, but which seemed sufficient with the Brazilian minister in Buenos Ayres, the protest was not made, and I am not aware that any correspondence between the two governments has been had on the

subject. The newspapers have continued to talk of the matter, however, and the community has not been free from apprehension, notwithstanding the seeming want of alarm in government circles.

Doubtless with a view to force the government to disclose their policy, a few days since Baron de Cotegipe caused to be published in the *Globo*, an evening newspaper, a letter, of which the inclosed is a translation. The baron is a leading conservative, is president of the Senate, and was minister of foreign relations some years since when his party was in power. The government, in response, caused to be published in the *Diario Official* of the 13th instant an article, of which I also inclose a translation.

The desire of the government to avoid a public discussion of the subject has been patent to all, but this has not had the effect of silencing the opposition. All efforts, however, having in view a further disclosure have failed, the president of the council of ministers having declared in the Senate that he would not permit himself to be drawn into the discussion at present. He evidently hopes to obtain an assurance that the purposes of the Argentine Government are not hostile, and in the mean time he is, apparently, endeavoring to calm the excited fears of the country. On the 15th instant he stated in the Senate that he did not believe there was any cause for alarm; but with this his mouth closed, and he could be induced to say no more.

As will be seen by the inclosures, the controversy consists in determining the location of the two streams called the Santo Antonio-Guassú and the Pepiry-Guassú. These streams take their rise in the territory between the Igassú and Uruguay Rivers, and flow in opposite directions, one emptying into the former and the other into the latter. It is conceded that they constitute the line of division between the two countries, but the Argentines contend that the Brazilian location of them is erroneous. They insist that the two streams lying several leagues to the east of the Brazilian location, which appear on the Brazilian maps as the "Chapeco" and the "Chopim," are, in truth, the Santo Antonio Guassú and the Pepiry-Guassú, and herein consists the question in dispute.

These streams were fixed as the line of separation under the provisions of a treaty entered into between Spain and Portugal in 1750. In 1759 a commission visited that locality, in pursuance of the requirements of the treaty, for the purpose of definitely establishing the boundaries, and upon the report of this commission, it seems, both parties to the controversy base their claims.

In 1857 an effort was made to arrange the difficulty amicably, and the negotiations to that end resulted in the signing of a treaty which recognized the Brazilian claim. The treaty was, however, rejected by the Argentine Congress.

In 1876 another effort was made in the same direction, but without result; since which time, until the recent movements, the question has remained at rest.

You will not fail to notice the language of the second paragraph of the article published in the *Diario Official*. I quote:

> No Argentine law can extinguish the issue existing between the two states, nor establish a jurisdiction which the imperial government does not recognize. The right of Brazil to the Pepiry-Guassú territory subsists in full force and shall be maintained.

* * * * * * *

I have, &c.,

THOMAS A. OSBORN.

[Inclosure 1 in No. 30.]

Letter of Baron de Cotegipe.

The following letter has been addressed by Baron de Cotegipe to the Globo on the subject of the Argentine decree creating the national territory of Missiones:

A month ago, while noticing the promulgation of the decree of the Argentine Government organizing the Missiones territory, you made some important queries. Have they been overlooked, or was it inconvenient to reply to them? The question is not of a reserved kind, especially after the *act of force* just effected by our neighbor, in deciding singly what has long been an object of controversy.

To those who give no attention to the matter, nothing appears more simple and natural than that decree. It traces the boundary of the Missiones government by the Pepiriguarú, at the Uruguay, to the San Antonio-Guarú, at the Iguazú. But not so to whoever knows that the rivers so called are really the Chapeco and the Chopim, and that our division from the Argentine Republic runs by the Piperiguarú and Santo Antonio, explored and marked in 1759 by the Spanish and Portuguese commissioners, whose mouths are: As to the first at 27° 9′ 23″, and as to the second, 25° 35′ 4″, for he sees that a large area of terrain has been usurped from us, and what is more, that this tract enters like a wedge between the provinces of Parana, S. Catharine, and Rio Grande de Sul.

Before and since our emancipation we have always maintained our right to this territory, declaring categorically that we would maintain it. The Argentine Republic never exercised any act of possession in that region even, because Paraguay lay between any attempt of the kind through its occupation of the Missiones territory, and it has to be noted that Paraguay always respected our limits on this side.

I am not aware of any act of the Argentines, unless this of which we treat, that authorizes their intrusion into the disputed lands. On the contrary, there is the treaty of January, 1857, which recognized it as Brazilian domain. And if this treaty, negotiated by the Argentine Government and approved by Congress, was not ratified —for a reason honorable to us—in the end by General Urquiza, under whose Presidency it was made, it is, nevertheless, an historical document, which at least should throw doubt on the right now arrogated by the Argentine Government.

Likewise, in opposition of the daring pretension, there are the documents of the negotiation which took place in 1876 between the minister of foreign affairs, Senhor Irigoyen (the same who has signed the decree of *expropriation*), and Baron Aguiar de Andrade.

The proceeding of our neighbor, if failing in justice, has the merit of frankness. The Argentine Government commenced by obtaining from Congress authorization to form the Missiones territory into a separate government. It then allowed some time to elapse, and has now cut through all doubts by taking the disputed territory to itself.

And what have we been doing?

The only act of our government that has come to light, and it merely on the return trip, is what we learn by to-day's papers, viz:

"The Brazilian minister has sent a note to the minister of foreign affairs to inform him that the imperial government, yielding to repeated urgings from the tribes inhabiting the Missiones territory between Guarapuava and the Pequiri, has decided on effecting an examination of those lands for the purpose of ascertaining whether they will serve for colonization.

"Nevertheless, as the boundary question between the Empire and the Republic is not definitely settled, Brazil, before taking any decision on this matter, has sent a communication to the Argentine Government and consulted it, to prevent false information.

"The minister of foreign affairs has sent on the note to his colleague of the Interior. It is supposed that the Argentine Government will *consent* to the request of Brazil."

Whence it may be concluded: 1st. That when the Argentine law was voted to nationalize the Missiones territory, there was nothing done on our side to save our right; 2d. That, when publication was given to the executive decree that included the terrain in litigation, no protest to the same purpose appeared; 3d. That any reclamation has been deprecated by putting the matter in doubt and *asking license* to explore on this side of the Pequiri.

It is natural that the Argentine Government will reply that if the Pequiri (the Argentine one) is the line it has nothing to permit, but if it is the *Brazilian* Peqiuri it cannot permit explorations for the founding of colonies in *national* territory.

What will the Government of Brazil say or do? Gulp down the humiliation? Abandon our right? This matter is grave, very grave. It is not by being silent and submitting that we can settle it honorably. The country may be surprised by a serious conflict for which it is not ready.

Ill-judged economy has snipped away our means of defense, whilst our neighbors have armed themselves by land and sea, without looking to sacrifices.

Right *without power* is now a weak barrier between nations. Provision is not provocation. Let us be provident.

BARON DE COTEGIPE.

[Inclosure 2 in No. 30.]

Reply of the government to the letter of Baron de Cotegipe.

The following official rejoinder appeared in the Diario Official of the 13th:

The government has not been careless in the boundary question with the Argentine Republic; on the contrary, it has pursued in it the example of lively interest left in the ministry of foreign affairs by Baron de Cotegipe. The incident referred to by his excellency in his letter to the editor of the Globo was the object of immediate attention. As soon as made aware, by telegram from the legation in Montevidéo, that the Argentine Government had submitted to Congress a bill transferring the Missiones territory from the provincial to the national domain, instructions were sent to the envoy in Buenos Ayres to send in a note saving the right of Brazil. It happened, however, that this note was not sent in at the fit moment, for reasons which appeared weighty to our minister in the Argentine Confederation, but which were not accepted by the imperial government. It was then considered that it would be well to await the resolution of Congress and subsequent acts.

No Argentine law can extinguish the issue existing between the two states, nor establish a jurisdiction which the imperial government does not recognize. The right of Brazil to the Pepiry Guassu territory subsists in full force and shall be maintained.

The recent acts of the Argentine Republic were: A law transferring the Missiones territory from the provincial to the national domain, and an executive decree dividing this territory into five administrative departments. In this decree the rivers Santo Antonio-Guassú and Pepiry Guassú are designated as the boundaries with our territory. These are really the rivers that divide the two countries; the controversy consists in settling what are the rivers that bear these names, the Argentine Republic maintaining that they are not those we indicate, but those we call the Chapeco and Chopim.

The international question remains, therefore, on foot, and the act of the Argentine Government cannot in any way affect it so long as it does not attempt to enter upon possession of the disputed territory. The founding of our military colonies cannot furnish motive for reclamation, because these colonies are situated outside that territory, as may be seen in the report presented by Conselheiro Doria to the general assembly.

The imperial government has no knowledge of the note said to have been sent in by Baron de Araujo Gondino to the Argentine Government.

No. 19.

Mr. Osborn to Mr. Frelinghuysen.

No. 35.] LEGATION OF THE UNITED STATES,
Rio de Janeiro, June 10, 1882. (Received July 12.)

SIR: The Bolivian minister here has been engaged for several months in the effort to effect an arrangement with the Brazilian Government, which will permit Bolivia to avail herself of the waters of the Amazon for commercial purposes, free from duties, and his labors have finally resulted in the signing of a treaty to that end.

The imperial government had already, by decree of December, 1866, guaranteed to the merchant ships of all nations the free navigation of the Amazon and its tributaries. But Bolivian commerce, to reach the Amazon, must avail itself of the Madeira and Marmoré Rivers, the navigation of which is interrupted for some distance within the Brazilian jurisdiction by huge cataracts; and to overcome this difficulty it is pro-

posed to construct a railway around the falls, a distance of nearly two hundred miles.

It is sought by the treaty to apply the same principle to the railway for the purpose of Bolivian commerce that has already been adopted concerning the rivers, and to that end it is stipulated that the use of the road shall be conceded, for the term of fifty years, as well for importations as exportations, free from all and whatever imposts, general, provincial, or municipal, and that it shall only be subject to the tariff that may be established for the transportation of persons and merchandise without distinction of nationality or origin. It is also agreed that the Marmoré River above the falls, whether in Brazilian or Bolivian territory, shall be open to free navigation by both nations.

The treaty is silent regarding the time within which the railway is to be built, but it is understood that the Brazilian Government is considering the subject now, and I judge that during the present session of Congress some action will be had having in view the early completion of the work.

Geo. Earl Church, an American citizen, was granted a privilege for the construction of this road in 1870, but after the expenditure of considerable money, and the performance of much labor by the contractors, Messrs. Collins, of Philadelphia, the work was abandoned. Mr. Church has signified his willingness to again undertake the enterprise if the government will concede him the guarantees which are customary in the country, and I shall not be surprised if he is yet permitted to prosecute the work to conclusion.

The tributaries of the Amazon are navigable to the very heart of Bolivia. The vast territory lying to the east of the cordillera of the Andes, in Northern and Central Bolivia, is bathed by their waters, and its commerce should find its way to the sea between their banks. Nature has certainly performed her part in affording that country an outlet. It rests now with man to perform his.

It is thought that the treaty will be ratified by the Brazilian Congress.

I have, &c.,

THOMAS A. OSBORN.

No. 20.

Mr. Osborn to Mr. Frelinghuysen.

No. 36.] LEGATION OF THE UNITED STATES,
Rio de Janeiro, June 17, 1882. (Received July 21.)

SIR: The minister of foreign relations has presented to the General Assembly a report, in which, among other topics, he briefly refers to the invitation extended by the United States Government to that of Brazil to participate in the proposed Congress of American States. The minister still entertains the views heretofore expressed by him on this subject in Congress, of which you have been advised in former dispatches.

I inclose an English translation, and beg especially to direct your attention to the closing paragraph. It will be seen that this government still adheres to their acceptance of our invitation.

In an informal conversation which I had early in this week with Baron de Cabo de Frio, of the foreign office, he spoke of the time required for

the preparation of instructions, and the voyage of the ministers, and expressed considerable anxiety for early information as to whether the Congress is to be held or not.

I have, &c.,

THOMAS A. OSBORN.

[Inclosure.—Extracts from report of minister of foreign relations.—Translation.]

The imperial government was invited by the United States of America to send two commissioners to a Congress of all the American nations, which, as was proposed, was to be opened in Washington the 22d of November of the present year, and in which were to be discussed the best means of avoiding war between said nations.

It is possible that the execution of this humanitarian project may be postponed, and it does not seem probable that by the means proposed can so difficult a question be solved; but the effort is worthy of the best support, and the imperial government, as much interested as any others in this part of the world in the preservation of peaceful relations, conformable with its traditional policy, could not refuse the aid which was asked of it. It was quick, therefore, to promise it.

The American Government indicated for the opening of the Congress a date so remote as should permit the hope of the republics of Chili, Bolivia, and Peru, which are at war, taking part in its deliberations.

Unhappily, perhaps they may not be able to re-establish peace between themselves within the time specified, and may not be prepared, therefore, to proceed, like the other nations, without preoccupations which might prejudice the ends of the Congress, and without which this, the Congress, would seem destined to intervene directly or indirectly in a business of which it should remain entirely free.

The imperial government is not yet informed if the invitation has been accepted by others. It still maintains its resolution, and will take the necessary measures to the end that Brazil may be represented on the designated occasion.

No. 21.

Mr. Osborn to Mr. Frelinghuysen.

[Extract.]

No. 37.] LEGATION OF THE UNITED STATES,
Rio de Janeiro, June 19, 1882. (Received July 21.)

In consequence of two questions which have arisen between Brazil and the Republic of Uruguay their relations have become somewhat strained.

It is claimed by this government that in November of 1880 a battalion of Uruguayan cavalry which was employed in the Uruguayan province of Tuacarembo pressed into the military service a considerable number of Brazilian citizens, five of whom were, with the approval of the commander of the force, Lieutenant-Colonel Santos, brutally and without cause put to death. During the past year a vast deal of testimony has been taken by the Brazilian consul-general in Montevideo, all tending to sustain this general charge.

The Uruguayan authorities, at the solicitation of the Brazilian legation in Montevideo, undertook an investigation of the charges, and the result has recently been laid before this government. The commission intrusted with the inquiry conclude that the complaint is groundless, and the Uruguayan Government, in forwarding the determination here, express the hope that the incident may be regarded as at an end. The Brazilian Government, however, do not appear to be content to let the affair drop. They are confident of the truth of the allegations made,

and seem inclined to urge upon the republic the punishment of the offenders; but I fail to discover any indications of a disposition upon their part to press their view of the matter to the extent of interrupting their friendly relations with their comparatively defenseless neighbor.

* * * * * * *

The other question has reference to financial transactions between the two governments. It is conceded, I believe, that Uruguay is indebted to Brazil on account of advances made at various times to the extent of some millions of dollars, but I am not sure that they agree as to the exact condition of the account. According to the Brazilian claim the debt now amounts to about nine millions, the major part of which is for interest. This government has been urging an adjustment of the matter, and some steps have been recently essayed by the Uruguayan legation here, having apparently that object in view; but I am not aware that anything approaching an understanding has been reached.

* * * * * * *

The government professes to believe that these questions will ultimately be amicably arranged. They disclaim any purpose of an attempt to enforce their demands by other than peaceful means, and I know of no reason for distrusting their sincerity. There is, it is true, some sentiment here which would justify a bold movement, having for its object the forced absorption of Uruguay, but it has not reached dangerous proportions. The present government have expressed themselves quite emphatically in opposition to any step in that direction, and I do not doubt that they have correctly interpreted the will of the nation. In addition to the causes which I have enumerated, it is urged in support of the said policy that the government of the republic is weak and inefficient to the extent of being incapable of performing its proper functions. There are some forty thousand Brazilians in the northern portion of the republic. These people and their property, it is claimed, receive no efficient protection at the hands of the government. It is also urged that the recklessness of that country, in its dealings with foreigners and foreign interests, is liable at any moment to produce a war in which this government might find it difficult to maintain a position of neutrality; that its existence is a constant menace to peace in this part of the world; and that the only effectual remedy for these evils is a destruction of its nationality.

There are those, too, who profess to believe that the interests of civilization would be subserved by a forced division of that country between Brazil and the Argentine Republic. This scheme has been quietly discussed by some of the prominent politicians of the country, but as yet there are no indications that it would meet with favor at the hands of this government, even if it should be acceptable to the Argentine Republic. The minister of foreign relations, in the course of a response to an interpellation in the House of Deputies a few days ago, approached this subject very delicately, and apparently with much caution, measuring his words, deprecated its public discussion, asserting at the same time that Brazil was disposed to observe her treaty obligations with Uruguay, and was not anxious for territorial acquisition in that quarter.

It has occurred to me, however, that the day may come when the republic will propose to pay its debt to the empire with territory. The policy of accepting such a proposition would undoubtedly find many influential advocates here, and it is possible that the government might feel inclined to give it a favorable consideration. Just how far the President of the United States ought to acquiesce in a voluntary transfer by an American republic of its domain to a monarchical power

presents, I apprehend, a question of no slight moment. There may be no occasion for its consideration on account of the situation here, and yet I shall not be surprised if the contrary proves to be true.

I have, &c.,

THOMAS A. OSBORN.

No. 22.

Mr. Frelinghuysen to Mr. Osborn.

No. 36.] DEPARTMENT OF STATE,
Washington, July 26, 1882.

SIR: I have to acknowledge the receipt of your dispatch No. 37, of the 19th ultimo, relating to questions pending between Brazil and Uruguay.

You state that it is claimed by Brazil that a number of its citizens were impressed in 1880 into the military service of the Republic of Uruguay, and that the government of the former country is not satisfied with the inquiry made and action taken in regard to the matter, by the government of that republic; and you also state that, as Uruguay is in debt to Brazil, it may elect to cancel the obligation by a cession of territory to Brazil, and that the day may come when that republic will make such a proposal, in view of which possibility you apprehend it to be a question of no slight moment how far the President of the United States ought to acquiesce in a voluntary transfer, by an American republic, of its domain to a monarchical power. You close your dispatch by saying that, although the occasion may not arise for the consideration of this question, still you will not be surprised if the contrary proves to be true.

In reply, I have to state that it is to be hoped that the contingency you fear may not arise. While the United States wish not to encourage any nation in making default in the payment of its debts, this government would be reluctant to see a republic which has a large bonded debt so hand over its territory to a monarchy that the government of the same would cease to be republican.

I am, &c.,

FRED'K T. FRELINGHUYSEN.

CENTRAL AMERICA.

No. 23.

Mr. Logan to Mr. Frelinghuysen.

[Extract.]

No. 273.] LEGATION OF THE UNITED STATES,
Guatemala City, March 3, 1882. (Received April 17.)

SIR: Under cover of this dispatch I inclose the translation of an editorial article from El Guatemalteco, the official organ of the Guatemala Government, relating to the proposed American Peace Congress. Its utterances are important. * * *

I have, &c.,

C. A. LOGAN.

[Inclosure in No. 273.—From the Guatemalteco, of February 18, 1882.—Translation.]

THE PEACE CONGRESS.

The document which is published in the present number gives an account to the public of the result of the projected Congress of Panama, which should have been inaugurated in that city on the 1st of December of the past year, according to the invitation directed with this object by the United States of Colombia.

The government of General Barrios, understanding that peace is the great necessity of the American republics, overrun with wars which nearly always were without reason or object, had accepted the invitation thus opportunely sent, and fulfilling the obligation which voluntarily it had desired to accept, accredited in due form the citizen who ought to represent it. But the generous proposition to establish arbitration as a principle of American public right, and to proscribe war, with its sad train of calamities and misfortunes, from the beautiful continent of Columbus, was defeated for the time being. Nevertheless it is not necessary to be discouraged. The grand ideas which bring with them the seed of a profound transformation and improvement for the peoples are immortal, and must succeed sooner or later, although they may have to encounter obstacles opposed to their propagation and increase which, for the moment, appear insuperable. Humanity never loses sight of them, and when the propitious moment arrives, avails itself of, and obtains from them, all the fruit they are destined to produce.

This reflection is suggested to us by the circumstance that the Government of the United States of North America has just addressed, through its respective ministers, an invitation to all the independent governments of America to take part in a general peace Congress, which will meet in the city of Washington in the month of November of 1882.

The Government of Guatemala immediately, and with the greatest enthusiasm, accepted this new invitation; and it is certain that, partaking of the initiative of the great nation called upon to sustain and lend such great services to the liberty of other countries of America, the generous impulse of peace will now go forth from the sphere of beautiful ideals to convert itself into a beneficent reality, fruitful for all Latin-American countries in precious guarantees of tranquillity and respect for right.

The note in reply to the invitation of the Government of the United States is a frank manifestation of the particular principles which the Government of Guatemala professes, and an unequivocal demonstration of those sentiments of admiration, sympathy, and respect which that extraordinary people inspire, without example in history, who, at each step, make the most valiant and surprising conquests in politics, industry, arts, and in all branches of progress and civilization.

Abounding in the same sentiments expressed in the note referred to, we can say that all America is to be congratulated. Soon, very soon, that Congress, which cannot fail to realize its objects, because the idea proceeds from a nation of unbreakable energy, which without receding marches ever forward in all it undertakes, will be a work that will honor America and all humanity, and will figure without comparison among the greatest and grandest events of this century.

We also send our most cordial felicitations to the Government of the United States of America, because it will be the one that realizes that magnificent and consolatory theory of peace, inasmuch as it was reserved, without doubt, to the greatest people to bring to a culmination the greatest idea.

The endeavors which some other nations of America have made, pursuing that ideal, are certainly laudable, but it becomes necessary to confess that the undertaking is of such magnitude, that it has not yet had a champion who, under all circumstances, might be able to sustain it without bending under its weight. To-day it is the great Colossus of the American continent, which takes upon itself the realization of that brilliant and philanthropic thought, and equal as it is to the magnitude of the idea, the greatness of the people which is its powerful sustainer, assures us, without doubt, that we are now upon the eve of those fortunate days in which the tree of peace will extend its shade over all the American peoples; in which only the respect for right will reign, and in which war will not return to visit these regions which for so long a time have suffered from its ravages.

Our conviction is that not one of the Latin-American powers will refuse to proceed promptly to the rendezvous which gives promise to realize the generous purpose which has inspired the invitation which occupies our attention, nor fail to be worthily represented in that great Congress of peace.

Guatemala felicitates itself that to the United States shall belong the glory of acquiring so splendid a conquest, and that the nation which has shown itself so great in war, so great in work and in industry, so great in its organization, in its principles and institutions, so great in all that is civilization and advancement, shall be equally great in bringing to its consummation a work which must figure as one of the most beautiful pages in her brilliant history, because it will be of the most transcendental importance to the cause of America, and of all humanity.

No. 24.

Mr. Frelinghuysen to Mr. Logan.

No. 196.] DEPARTMENT OF STATE,
Washington, March 14, 1882.

SIR: On the 10th instant I sent to you, through Consul Sutter at Acapulco, the following telegraphic message:

Senate Committee on Foreign Relations have adopted an amendment to bill incorporating the Maritime Canal Company, and make eleventh an objectionable clause "subject to any sovereign rights of the Government of Nicaragua."

The bill to which this telegram referred was introduced in the Senate by Senator Miller, of California, on the 15th of December last, and has since been under examination in the Committee on Foreign Relations. The eleventh section thereof, with the amendment adopted by the committee on the 11th instant, indicated in brackets and italicized, now reads thus:

SEC. 11. That the United States shall exercise such control over the canal as is now or may at any time be prescribed by treaty with Nicaragua, and shall enjoy its free use for the transportation of troops, munitions of war, and mails, and otherwise in accordance with stipulations in existing treaties. And should the United States see fit for national reasons to temporarily occupy and manage said canal, the right to do so [*subject to any sovereign rights of the Government of Nicaragua*] is hereby reserved and secured to the government upon the payment to the stockholders of said canal at the rate of 5 per centum annually upon the capital invested, together with the necessary expenses for the maintenance of the work.

I am, &c.,

FRED'K T. FRELINGHUYSEN.

No. 25.

Mr. Logan to Mr. Frelinghuysen.

[Extract.]

No. 280.] LEGATION OF THE UNITED STATES,
Guatemala City, March 21, 1882. (Received April 17.)

SIR: On the 18th of the present month I received a telegram in the following words:

Senate Committee on Foreign Relations have adopted an amendment to bill incorporating the Maritime Canal Company and make eleventh an objectionable clause subject to any sovereign rights of the Government of Nicaragua.

* * * * * * *

In reply I have to say that not having been furnished with a copy of the bill incorporating the Maritime Canal Company, my only knowledge of its provisions is derived from articles published upon it by El Mensajero of Costa Rica, and El Porvenir of Nicaragua. The article in the latter sheet contains, and comments upon, the eleventh clause referred to in your telegram; but it is evident either that there is a mistake about it in Nicaragua or that the clause or section has been altered by the company from the original draft. The article in El Porvenir is very severe upon those features of the bill which bear upon the question of the imperiled sovereignty of the republic, while it would appear from your telegram that the United States Senate does not consider the bill

to go far enough in that direction. There is a conflict here which, without the bill before me, I am unable to reconcile.

El Porvenir article takes the strong position that the company's concession had lapsed, and that it should not and could not legally be extended. It declares the pretension of the United States to sovereignty over the canal route to be of a piece with the similar pretension in reference to Colombia, and that it will neither be tolerated by the people of Nicaragua nor the powers of Europe with which the country has treaties. This paper has no official character, and its declarations are not of very great importance.

A brief review of late events will place you in knowledge of the present situation in Nicaragua.

Paragraph 3, of Article 47 of the concession, stipulates that the concessionees shall have two years time from May 29, 1880, in which to form the company, make the surveys, and begin the work. The expiration of that period being close at hand, Capt. E. P. Lull was sent out as a special commissioner to solicit an extension of the time. He arrived in Managua, the capital of the republic, on the 8th of February ultimo. Having satisfied the government, an Executive decree was issued extending the stipulated time to the 30th of September, 1884. This decree was ratified by the Senate on the 23d of February; by the house of Deputies on the 24th, and received the Executive signature the same day. Having accomplished the purpose of his mission Captain Lull left Nicaragua on the 24th ultimo, and as he did not communicate with this legation during the time he was in the country, I infer that he went away entirely satisfied.

There is one condition made by the Government of Nicaragua upon which the extension is based, and which must be accepted by the concessionees within four months to make it valid. The concession provides in Article 14 that the canal company shall construct a canal, within three years from the date of the concession, between the lake of Managua and the navigable part of the river Tipitapa. This part of the concession was not extended. The government is to have the privilege of cutting the referred-to canal at once, with funds from the general treasury; but it is to receive from the concessionees the sum of $200,000 in cash, to cover the outlay therefor. A contract for doing this work has already been let to the French contractor, A. P. Blanchet. As involving no concession to the contractor, the canal company's rights cannot be interfered with, especially as they are fully protected in them by their concession.

The Nicaraguan Congress adjourned *sine die* on the 11th of the present month without further action in reference to canal matters than as above stated.

* * * * * * *

I have &c.,

C. A. LOGAN.

No. 26.

Mr. Logan to Mr. Frelinghuysen.

No. 281.] LEGATION OF THE UNITED STATES,
Guatemala City, March 22, 1882. (Received April 17.)

SIR: Under cover of this dispatch I inclose the translation of a note, marked No. 1, from the Government of Honduras, accepting in hand-

some terms the invitation to send commissioners to the Washington Peace Congress, and the translation of a note, marked No. 2, from the Government of Costa Rica, upon the same subject. From this latter it will appear that Costa Rica, while approving of the Congress and being ready to send commissioners, will not actually appoint until further advices are received as to whether or not it is the intention of our government to hold the Congress.

These inclosures complete the responses from the five States under my charge, and the results may be stated as follows: Guatemala, Salvador, and Honduras have accepted the invitation without reservation; Nicaragua approves the project cordially, and will give a definite answer at a later date; while Costa Rica, expressing enthusiasm upon the subject and being ready to appoint commissioners, will wait until it is determined whether or not our government intends to adhere to the original purpose of holding a Congress.

I have, &c.,

C. A. LOGAN.

No. 27.

Mr. Logan to Mr. Frelinghuysen.

No. 284.] LEGATION OF THE UNITED STATES,
Guatemala City, April 3, 1882. (Received May 5.)

SIR: Under cover of this dispatch, I inclose a copy of the Gaceta Oficial of Nicaragua, of March 11 ultimo, which contains the contract of that government with Monsieur A. P. Blanchet. I also inclose, marked No. 2, a translation of the same, which, having been hastily made to catch the mail, may contain some unimportant errors.

My dispatch No. 280 informs you of the execution of this contract. A careful reading of Articles 25 and 27 will show you that the rights of the American Company have been expressly guarded. For your fuller understanding of the matter, I make a brief *résumé* as follows: Article 14th of the American concession stipulates that the company shall construct a canal of certain dimensions between the lake of Managua and the navigable part of the Tipitapa River, within the term of three years from the beginning of the interoceanic canal work. Upon the completion of this short canal, the government is to take possession of the work, and thenceforward pay all expenses of maintenance, operation, &c., while the American Company is to have the unrestricted right of free use during the life of their concession.

When the American Company failed to begin the work within the specified time, and it became apparent that the concession was about to lapse, the Government of Nicaragua began to cast about for means to canalize the Tipitapa River, which connects the lakes of Nicaragua and Managua. The deepening and widening of this river, now too shallow for navigation, would insure interoceanic communication through Nicaragua. Small vessels could ascend, it is claimed, the San Juan River from San Juan del Norte on the Atlantic, and passing through the above-named lakes by the canalized river would reach the small port of Leon Viejo, on the western shore of Lake Managua. From thence there is soon to be completed railroad communication to the port of Corinto on the Pacific.

The government could hardly be blamed for wishing to accomplish an end of such importance, and preliminary negotiations had been had with Monsieur Blanchet for the construction of the canal before the late visit of Captain Lull to Nicaragua. When the latter arrived, he found no difficulty in getting an extension of the original concession, modified, however, as stated to you in my No. 280. The sum of $200,000 stipulated by the government is ostensibly for the purpose of meeting the expense of a repurchase from Blanchet.

However, as you will perceive, the American concession is carefully protected in the Blanchet contract, so that no prejudice to American interests can result therefrom.

I have, &c.,

C. A. LOGAN.

[Inclosure in No. 284.—From the Gaceta Oficial of Managua, Nicaragua, March 11, 1882.—Translation]

Law ratifying the Tipitapa Canal contract.

The President of the Republic to the inhabitants thereof:

Know ye, that Congress has ordered the following:

The Senate and Chamber of Deputies of the Republic of Nicaragua decree:

Singular. Let the contract be ratified which was celebrated by the government on the 6th of the current month, by means of the special commissioners, licentiates Don Miguel Brioso and Don Modesto Barrios, with Señor Aristides P. Blanchet, for the excavation and operation of a canal of sufficient size for navigation between the great lake and that of this city, in the following terms.:

ARTICLE. 1. The Republic of Nicaragua concedes to Señor Blanchet, and he accepts the exclusive privilege for the opening, construction, and operation of a canal sufficient for navigation between the lake of Managua and that of Nicaragua, with the object of forming a company for construction and operation, which Señor Blanchet shall organize according to the terms of this contract.

The canal shall have:

1st. The width, depth, and water sufficient for the passage at all times of the largest ships that can navigate the Lake of Nicaragua.

2d. The locks indispensable for its use, the dams, walls, and other works that may be necessary, of the size and strength required in the regular and constant navigation of a canal with locks.

3d. The works necessary to prevent the canal from making leaks prejudicial to the neighborhood, or that in any other way might cause a drainage of water from the Lake of Managua to such an extent as appreciably to lessen the volume of its waters.

The company shall not be obliged, in case of the construction of the great interoceanic canal, to give to theirs the dimensions of a great maritime canal.

The state declares the work of the canal to be one of public utility.

ART. 2. The duration of the present privilege will be fifty years, counting from the day the canal may be opened to navigation.

The present concession, with all its tolls and advantages, shall be the object of an executary concessionary company, and the expression Blanchet refers to it each time it is used in this contract.

This concession shall be transferable only to the executary company which Señor Blanchet organizes, and in no case to any foreign government or foreign public power; neither shall Señor Blanchet cede to any foreign government any portion of the lands conceded by this contract; but he may do so to the aforesaid company, to private persons, or to another company, with the same restriction.

ART. 3. The company shall be organized under the forms and conditions generally adopted by this class of societies.

ART. 4. The capital of the company shall be composed of shares, bonds, and whatever other titles in the proportion it deems expedient.

The emission and transfer of these titles shall be exempt from all stamp or other duties or imposts established or to be established in the republic.

ART. 5. Señor Blanchet shall have the period of one year in which to commence, and one year more in which to finish the canal, counting from the day of the ratification of this contract, extendable six months more in case of unforeseen circumstances or acts of God which might justify such extension.

The works will be deemed to have commenced when Señor Blanchet is proved to

have brought into this country materials for the enterprise of the value of eight thou sand dollars, or when said materials are discovered to be upon the way.

ART. 6. The canal and its works must be kept in good condition for service and be thus delivered to the state, when the term of the concession ends.

ART. 7. All the expenses of survey, construction, conservation, and operation of the canal shall be paid by the concessionary company, without any money or other kind of subsidy or guarantee of interest on the part of the Goverment of Nicaragua, or any other charges than those specified in the present concession.

ART. 8. It is undertsood and stipulated that, in respect to the navigation of the Lake of Nicaragua and the river San Juan, the rights acquired by Señor F. A. Pellas in the contract of navigation celebrated with the government and ratified on the 16th of March, 1877, are reserved.

ART. 9. The necessary areas of ground on the main land as well as in the lakes and islands for the construction of the canal, for the deposit of the materials proceeding from excavations and clearings, for the necessary spaces occupied by the spread of waters after the making of dams in the beds of rivers, and for all the necessary drainage, also for tanks, dikes, spaces at both sides of the locks, light-houses and signals, stores, edifices and work-shops, as well as those that may be necessary to the routes of railroads for the service, and ditches of the same nature, for the transportation of materials at the base of the work, and for the supply of the canal—in fine, all the lands and places necessary to the operation and execution of the canal shall be placed by the state at its disposition, under the following conditions:

The lands belonging to the state, to the extent that may be necessary, will be placed at the disposal of the company without any indemnification whatever; with regard to those of private individuals, the expropriation shall be made by the state, in the same proportion and extent that may be necessary to the company, provided that the latter ask for it for its own use and for reasons of public utility, it being understood that the indemnity due to private owners of lands so expropriated shall be paid by the company.

In all that relates to expropriations which may be made, the company shall enjoy all the privileges and immunities which by legislation or custom is reserved to the state, so that it will not be obliged in any case to pay more than the state itself would under similar circumstances.

From the day on which the present concession may be ratified by Congress, the public lands embraced in those which may be necessary for the construction of the canal cannot be alienated, neither can they be leased to the prejudice of the company.

ART. 10. In case the company should desire to occupy temporarily during the construction of the canal any lands not included in those designated in the preceding article, it shall not be required to pay any indemnity therefor if the said lands belong to the state; and the latter shall not sell nor dispose of them in any other way, except with the reservation of the right of the company to such temporary occupation, the limit of which shall be that of the execution of the work of the canal.

Should these lands be private property, the company can occupy them, previously indemnifying the owners according to the laws of expropriation; provided always that such occupation in either of the two cases be absolutely necessary.

ART. 11. The company shall have the right to the use, in the construction, appointment, and operation of the canal, of the wharves belonging to the state in both lakes without paying any recompense therefor.

For its own use, and that of the ships passing through the canal, the company can construct in said lakes, and where they find it convenient, such wharves and piers as they judge necessary, provided that these do not interfere with any public interest.

Conforming to the rule adopted, the state, on the other hand, can use these wharves and piers in its own service without being subjected to any payment therefor, but on condition of not interfering with the business of the company; in case, however, it should be necessary to exceed the term and space fixed by the rule, it must give previous notice, in order that the company may make the necessary dispositions to this effect.

The company shall pay no duties for said establishments constructed in the waters of the lakes and affluent rivers.

ART. 12. The company will have the right to execute over the whole extent of the canal at the entrances of the lakes and over the whole extent of the lands conceded by articles 9 and 10, the works of inception, embankment, excavation, dredging, &c., and in general all works of whatever nature which may be and which it may deem useful to the establishment and supply of the canal, its operation, conservation, and maintenance.

It is especially authorized to execute on the course and banks of the river Tipitapa and the estuary Panaloya and their affluents, as well as on the tributaries of the lake of Managua or currents of water which can be united and utilized by drainage to the lakes, the systems of dikes, rectifications, &c., and in general all works which the engineers of the company may consider indispensable to the execution, supply, naviga-

tion, and operation of the canal; and especially to assure at all times, and above all in times of drought, an abundant supply of water for the lake of Managua and for the canal, and, consequently, also for the lake of Nicaragua and the river San Juan, the company shall have the right to drain, by means of a trench or other works, the whole or part of the waters of the river Matagalpa, which, under the name it takes farther from the Rio Grande, is a direct affluent of the Atlantic through the Masquitia into the Rio Grande or Viejo, which runs in a line parallel to the first, which falls into the lake of Managua at the bottom of the bay of Mabota.

It is understood, nevertheless, that the company cannot divert rivers or interrupt their course, or do in them any other work that may be prejudicial to the interests of any town or vicinity without a previous understanding with the government, and that, in regard to injuries which such works or analogous ones cause to private persons, the company must always indemnify them therefor.

ART. 13. The company shall also make similar works, should it think them necessary, in the lakes at the mouths of the canal, to assure in them easy navigation.

ART. 14. The embankments, refills, and dikes; when they shall be formed at the mouths of the canal and on the rivers Tipitapa and Panaloya, by the deposit of materials taken from the excavation of the canal, shall belong to the company during the concession.

ART. 15. The company shall have the right to take the lands belonging to the state, for the construction, operation, and conservation of the canal, in such number of lots and at such points as shall be fixed by agreement with the government without paying therefor any indemnity or compensation whatever, all classes of materials, and especially stones, woods, lime, volcanic matter, the juice of the rubber tree, for making tubes, apparatus, and other appliances; in a word, all natural, mineral, and vegetable products which may be necessary for the construction, operation, and conservation of the canal and of the establishments and implements indispensable to the work, such as houses, mess-rooms, ships, rafts, &c., making clear to all the right of the company to take said materials from the nearest and most convenient points for their extraction—all this under the same conditions as those that apply to the state and to any other legitimate operator.

ART. 16. The concessionary company shall have the right to establish on the line of the canal and its dependencies for the promotion, administration, and operation of the work, all the telegraph and telephone lines that it may judge expedient.

ART. 17. In case the company should be able to utilize the waters of the canal and its dependencies for the irrigation of plantations, gardens, and streets, or for supply, conducting them to places which may not have them, or as motive power for the use of private individuals, it shall have the right to receive, according to the tariff which it establishes, a tax proportional to the quantity of water furnished as motive power, for irrigation, and supply; but this tax cannot be exacted from those proprietors who may incidentally benefit by the waters that the company may be obliged to take through their lands unless they solicit it.

ART. 18. The company shall be exempt from all forced loans and military service in time of peace and of war. Its foreign agents and employés shall also be exempt from direct contributions, forced loans, and military service during the time they may be in the service of the canal; but they will pay the contributions established by law in case thay should acquire real property.

ART. 19. The company will also be exempt during the period of the concession, in peace and war, from all kinds of imposts on the original property which it acquires in virtue of this contract, and every species of direct contribution or whatever other fiscal tax, relative to the property and to the use of the canal, its edifices and constructions, which belong to it in all its extent, including also the lands conceded to the company for all the period of the privilege.

This immunity is not transferable to those who may buy the original properties of which the company can dispose by virtue of this concession.

ART. 20. For the good administration of the canal and its dependencies and for its better execution and operation, the company will establish the necessary regulations, which shall be obligatory upon all persons who may find themselves in its waters or dependencies, under the sole reservation of respect for the rights and sovereignty of the state; it being understood that the company, in the exercise of the attribute which this article confers, cannot issue other orders than those necessary for the proper administration and management of the canal. These regulations and orders cannot be put in operation without first submitting them to the government in order that it may give them its approval.

ART. 21. The government shall give its protection, in accordance with the laws of the country, to the company, and to its engineers, contractors, employés, and operatives who may be occupied in the preparatory surveys of the ground and in the construction and operation of the canal.

ART. 22. The company can freely introduce immigrants to the lands and workshops of the concessionaries, and all the employés and workmen, whatever may be their

nationality, contracted for, or that come seeking employment on the works of the canal, or in the cultivation of the lands, under the condition that these employés or workmen submit to the laws in force in the republic and to the regulations established by the company.

The enjoyment of absolute freedom of worship the Government of Nicaragua guarantees to all, according to the laws of the country, and as it does with the other inhabitants, opposes every hostile act, using therein all the means that may be in its power.

On the other hand, the company, its agents, and all strangers above mentioned will be required strictly to respect the laws and regulations which are in force in Nicaragua and especially the executory sentences of the tribunals, without conceiving in any case other rights than those the laws concede to Nicaraguans.

ART. 23. The contracts for work on the canal, and all those which relate to it, shall enjoy the privileges which the laws of the country concede to those of agriculture, provided that they be invested with the formalities the latter require in cases of this kind.

The contracts for work on the canal which the company may make in a foreign country shall be valid and legal in Nicaragua for the whole period of their stipulations, provided they are not contrary to the laws of the republic, and the duly-authenticated documents be presented to the proper authority in order that it may have a knowledge of them.

ART. 24. The company cannot bring merchandise into the territory of the republic for the purpose of trading in it without paying the customs duty established by law.

Nevertheless, with advice to the government, accompanied by the invoices required, it can import, free of customs duties or any other imposts, those articles which are necessary for the works of the enterprise, such as are used for surveys, explorations of localities, construction, wear and tear, operation, sustenance, repairs, improvements to the canal, for telegraph and railroad service, and for the work in the shops which the company maintains in active operation; the said articles may consist of implements, engines, apparatus, coal, limestone of whatever kind, iron, copper, steel, and other metals, crude or manufactured, powder for mines, dynamite, or any other analogous article.

These things may be discharged, deposited, manufactured, and transported in or to whatever place they may be required free of all fiscal taxes. The ships which the company keep as tow-boats or others for the business of the canal shall be free from all imposts as well as the materials for their repair and their fuel.

The ships, tackle, and furniture, from whatever source they may be, which come for the service of the company, shall also be free from all imposts.

ART. 25. In compensation for the expenses of surveys, construction, operation, and conservation of the canal, which, according to the present concession, are at the charge of the company during the term of said privilege, it shall have the right to establish and receive for the passage of ships and vessels of all kinds through the canal and in the waters and ports pertaining to it, imposts of navigation, tonnage dues, pilotage, towage, storage, anchorage, light-house dues, harbor dues, wharfage, hospital dues, and whatever other similar dues according to the tariffs it establishes.

These tariffs may be modified by the company at any time under the condition that all alterations made therein shall be promptly communicated to the Government of Nicaragua, and in no case can the company collect more than one dollar and fifty cents for each ton of weight or of measurement; and passengers shall pay as a maximum ten cents.

The rights of the Interoceanic Canal Company, conceded by article 14 of their contract, are reserved to that company.

The state of Nicaragua binds itself not to establish tonnage, anchorage, pilot, light-house, or any other kind of dues on vessels of whatever class they may be, nor on merchandise and passengers' baggage in transit through the canal from one lake to the other.

Moreover, and in order to prevent all increase of expense and to favor navigation in the canal, the state engages, in its own name and in that of the municipalities along the shore, not to establish on the lakes any tax of navigation, ferriage, anchorage, storage in transit, or any other kind of tax on any ship which may navigate the route destined for the projected canal, nor on merchandise or travelers which it carries to the same destination.

In consequence of which, the state and municipalities along the shore cannot establish similar taxes, except on passengers and merchandise carried in these ships, when they shall not have to pass through the canal.

ART. 26. The faculty of receiving taxes from ships which may enter the canal pertains solely to the company, nevertheless the dwellers along the shores of the canal can travel around with their ordinary small vessels, provided they do so outside of the locks, without paying any tax and under the necessary condition that they prove it to be on their private business or for the working of their properties, and not intro-

ducing or dealing in merchandise or passengers destined to the lakes; in which latter case the taxes will be collected by the company.

Neither can the company collect any tax for traffic done by water in vessels not pertaining to it, from one shore of the canal to the other, coming from Choutales, Matagalpa, or Nueva Segovia to these departments, and vice versa.

ART. 27. In consideration of the importance of the services which the execution of this work will lend to the republic, and with the object of favoring immigration, the Republic of Nicaragua cedes in ownership to Señor Blanchet or to the company which he may form the quantity of fifty thousand manzanas (about 87,000 acres) of land belonging to the state, in separate lots of different sizes, and in such places as the company may select with the concurrence of the government.

The company shall be the definite owner of these lands as soon as it may have finished the work of the canal, but the state will put the company in possession of said lands as soon as it begins the work.

The measurement of the land will be made at the expense of the company and plotted in duplicate, and with a description which will serve to identify the locality; these, verified in succession and approved as correct by the government, will constitute the definite localization of each lot.

One of these plans and descriptions will be preserved in the archives of the state and the other will be retained by the concessionary.

This concession of lands shall not affect in any way those conceded to Señor Don Aniceto G. Menocal by the contract of the 24th of April, 1880, even in case the said contract should become of no effect.

ART. 28. At the expiration of the term of fifty years, as stipulated in the concession, the republic will enter into possession, in perpetuity, of the works of the canal, dikes, light-houses, franchises, borders and spaces directly necessary for the operation of the canal and wharves, without having to pay any indemnity for this act of taking possession.

The ships of the company, gardens, fields, provisions of whatever kind, workshops, and floating and reserved capital, as well as the lands ceded by the state will be excepted from the operations of the previous rule.

Except the said lands and the floating and reserved capital, all the other objects last referred to can be acquired by the state at a valuation to be placed on them by appraisers.

ART. 29. The state of Nicaragua expressly reserves the right to become at any time the owner of the canal before the expiration of the fifty years for which this concession is made.

This right the government will exercise upon paying to the company the value of the construction of the work and implements employed in it.

The government will pay the value of the expenses legitimately incurred by the company for the execution and operation of the work, according to their amount, which may be proved by examination and comparison with the books of the company, or ascertained by appraisement, at the option of the government.

Upon the value which may result in one case or the other, the government will pay to the company a premium of thirty per centum, from which it will deduct a fiftieth part for each year run.

The government will give notice to the company of its resolution in this respect, one year in advance.

ART. 30. The state, in case of making itself owner of the canal, as provided for in the previous article, will respect and execute all contracts of lease, sale-purchase, and business made in good faith by the company in the administration of the canal, provided they be not directly or indirectly contrary to the stipulations of this contract or the prescriptions of the laws in force.

ART 31. This contract shall become of no effect: 1st, for failure on the part of the company to comply with whatever of the conditions in articles 2 and 5; and, 2d, if the business of the canal, after its construction, shall be interrupted for a period of six months, except by the acts of God.

The invalidation of the contract being declared by reason of either of these causes, the public lands ceded by this convention will return to the dominion of the republic in whatever state they may be found, without idemnification, even in case they shall have been built upon, excepting those lands which may have been alienated to private persons by the company, with the formalities prescribed by law.

ART. 32. Any question that may arise between the government and the company by reason of this contract shall be settled by a tribunal of one or two arbiters, named one by each party.

In case these two cannot agree upon a final decision they shall name a third, and if these three cannot agree, they shall name one of the presidents of the courts of justice of Leon or Granada, at the option of the company.

In this case the decision shall be given by three arbiters, constituting a majority o votes, with or without fresh information.

Every decision must give the reasons of the resolution on all the points in question.
The decision given by the arbiters will be final, without right of appeal.
Given in the saloon of sessions of the Chamber of Deputies, Managua, March 4, 1882.

ADRIAN ZAVALA, *P.*
JUAN F. CALLEJAS, *V. P.*
ISADORO GOMEZ.

To the executive power.
Saloon of sessions of the Senate chamber.
Managua, March 4, 1882.

A. H. RIVAS, *P.*
JOSÉ MARIA ROJAS, *S.*
J. M. GASTEAZORO, *V. S.*

I, Aristides P. Blanchet, declare that I accept the present contract with the modifications which the legislative power has been pleased to make to accord it their ratification.
Managua, March 4, 1882.

AR. P. BLANCHET.

Therefore let it be executed.
Managua, March 4, 1882.

JOAQUIN ZAVALA.

The sub-secretary of the interior.

FRANCISCO J. MEDINA.

No. 28.

Mr. Titus to Mr. Frelinghuysen.

[Extract.]

No. 5.] LEGATION OF THE UNITED STATES IN CENTRAL AMERICA,
Guatemala City, May 12, 1882. (Received June 3.)

SIR: Your dispatches Nos. 202 and 203 to Mr. Logan, the latter dated April 13, have been received at this legation.

Referring to the dispute between Guatemala and Mexico on the subject of boundaries, which is the subject of your No. 202, I have the honor to inclose certain documents which may give you some information of the state of affairs here. No. 1 is a translation of a note from the Mexican minister here to the Guatemalan minister of foreign relations, and No. 2 is the answer of the latter. These translations were very hastily made, but I think they will be found to be substantially correct. * * *

A few days after this correspondence President Barrios sent a message to the Assembly, asking for full powers to arrange the boundary question with Mexico as he thought best. His request was granted in a decree of which the following is a translation:

Only article. The President of the republic, General J. Rufino Barrios, is authorized in an especial and ample manner to arrange definitely, and in the manner which he may judge most beneficial to the true interests of the country, the question of frontiers pending with the United Mexican States.

* * * * * * *

I have, &c.,

FRANK H. TITUS.

[Inclosure 1 in No. 5.]

Mr. Loaeza to Mr. Cruz.

MEXICAN LEGATION IN THE REPUBLICS OF CENTRAL AMERICA.

Guatemala, April 10, 1882.

Mr. MINISTER: I have just received two copies of the report presented by your excellency to the legislature last month; which document I have read attentively, giving special attention to the portion referring to the relations between Guatemala and Mexico. Speaking of the question of boundaries, your excellency says that, "*It is believed with sufficient reason that before the termination of the year the said question may be completely and satisfactorily arranged, it being impossible for the Government of Guatemala to have any other aspiration than that of maintaining its rights, and that the territory legitimately belonging to the republic may not be dismembered, for whose integrity it has to watch according to the fundamental law.*" Your excellency also expresses your opinion that all the charges made against the Government of Guatemala in the report which the secretary of state and of the department of foreign relations of Mexico remitted to the Congress of the Union of my country, the 10th of last September, "*are absolutely destitute of justice.*" That the government of which your excellency forms part is pleased that Mexico recognizes the judicial fact that the Uriarte-Vallarta convention has legally expired; "and that the President of the republic does not remember having proposed that a new convention be made with the intention of reviving the former ones." Finally, your excellency, penetrating into the slippery region of suppositions, affirms that, "*it is hidden from no one, that if it were sufficient that the federal Government of Mexico should declare, upon its own authority, that to it belonged any part whatever of the territory of Guatemala, the day that it should be pleased to declare that the whole extent of the republic belonged to it, your excellency's government would have to acknowledge that resolution, and to recognize the legitimacy of the title which it would create, or else to give an offense which would necessitate a reparation.*"

I wish that your excellency's hope that during the present year the question of boundaries may be terminated in a satisfactory manner may as soon as possible be an accomplished fact, because the desire of my government in regard to the affair is: that the dividing line between the two republics be fixed, perfectly determined, in order that there may be no room for doubts, and that the vexatious difficulties which are making themselves felt may be avoided.

As your excellency's report to which I refer contains asseverations which affect the good name of my country, and it may be necessary that they be removed, I remit to my government a copy of the said document; but this does not prevent me from fulfilling the duty of expressing in the present note my dissent from the facts and appreciations (?) given by your excellency, in order that at no time consequences may be deduced from my silence. I permit myself to rectify only the most important errors.

Although it cannot be considered as a serious hypothesis that it could occur to Mexico to declare of its own authority that all the Republic of Guatemala belonged to it, taking into consideration the elevated character and illustriousness of the functionary who formulates it, I am obliged to inform him that there is no fact authorizing a supposition of such a nature.

Mexico, Mr. Minister, prides herself on nothing so much as on her never deviating from rectitude; my country does not need nor wish for foreign territories; she possesses sufficient territory for a population ten times greater than that she has, and if your excellency will please to read the declarations that, competently authorized, are made by the editor of the Diario Oficial of the Government of the United Mexican States, in No. 59 of this periodical, dated the 10th of last month (of which I take the liberty of inclosing a copy), you will be convinced of the truth stated.

It is certain that the Government of Mexico recognizes that the effects of the convention of December 7, 1877, and those of its prorogation of May 3, 1879, legally ceased on account of the termination of the first period stipulated in the last, without the commission of experts having finished its labors in the first section of the frontier line, and as the Most Excellent President of this republic does not remember, as your excellency says, having proposed that a new convention be made, with the intention of reviving the former ones, I am able to clear up that fact.

In a note dated June 25, 1881, I had the honor to inform, among other things, the department under your very worthy charge, as follows: An incident which concerns the minister of foreign affairs of my country, in the note which causes this answer, is not referred to by your excellency in your very esteemed note which I have the honor to answer, and it is the fact that the undersigned, by order of his government, had the honor to insinuate to the Most Excellent President of this republic the convenience of celebrating a new convention, which should revive that of December 7, 1877, and that, having received such insinuation favorably, the First Magistrate himself dictated his agreement, that it might be transmitted to the minister of Guatemala in Mexico, in order that the treaty might be celebrated; and that Señor Herrera had not

informed the department of foreign relations of Mexico that he was authorized to that effect." And the 29th of the same month, Dr. Lorenzo Montufar, in his character of secretary of foreign relations, which he was then, had the kindness to answer me, among other things, as follows: "Instructions were sent to Señor Herrera, that *immediately* he address himself to the secretary (department) of state of the Mexican Republic, *with the end of entering into negotiations over the new convention* referred to in your excellency's esteemed note, which I answer to-day."

In consequence, when the secretary of foreign relations of Mexico stated in the report of last September that the Most Excellent President of this republic had accepted the proposition which the Mexican Government made him, through me, to revive the said conventions, he expressed a truth entirely indisputable.

Before closing, will your excellency permit me to express my surprise to see expressed, in the document to which I refer, that: the Government of Guatemala *is pleased that Mexico recognizes the juridical truth that the Uriarte Vallarta convention has legally expired*, because this manifestation of pleasure contrasts with that of the desire which your excellency says the government has to come to a prompt and complete arrangement of the question of boundaries, when the scientific investigations stipulated in the said convention must have been exceedingly useful, furnishing the data necessary for its greater exactness.

Although at the risk, Mr. Minister, of abusing your excellency's kindness, I permit myself to ask you to be pleased to insert this dispatch in the Guatemalteco, providing there should be no objections.

Renewing, &c.,

F. LOAEZA.

[Inclosure 2 in No. 5.]

Mr. Cruz to Mr. Loaeza.

GUATEMALA, *April* 11, 1882.

Mr. MINISTER: I have attentively studied the esteemed communication which your excellency was pleased to address me under date of yesterday, with the object of expressing your dissent to certain statements and observations contained in the last report made to the Legislative Assembly, and of rectifying the principal errors which, in your excellency's judgment, are contained in the portion referring to the relations between Guatemala and Mexico, in the said document, which for my part I also took care should reach your excellency's government. I might, from this moment, abstain entirely from entering into discussion concerning the statements and observations con ained in the said report; and so doing, would do no more than imitate the conduct which, in a recent and analogous occasion, the secretary of state of the Republic of Mexico saw fit to observe, when our minister addressed him, expressing the astonishment caused him by certain words used by the President, in giving an account to the chambers, on the 16th of September last, of the state of the relations between Guatemala and Mexico. The answer which that elevated functionary gave him was, that without establishing a promiscuous precedent, the documents issued by the executive, in conformity to a constitutional requirement, to inform, not foreign countries, but the representatives of the nation, of its political state, although they might be given the greatest publicity for the information of the latter, could not be taken as a theme of discussion with foreign ministers, because they are acts of interior polity, although they may be found to contain references to exterior affairs. Without prejudice of the right to make use of this example, nevertheless, I do not make use of it now, through deference to your excellency, and because I do not wish to deprive myself of the pleasure of giving you an answer, rectifying in my turn the errors into which it appears to me you have fallen. The report presented to the Assembly does not say, nor could it say in any part, that it is believed that Mexico is going to declare, of her own authority, that all the Republic of Guatemala belongs to her, nor does it say in any part that there is a presumption that such a thing will happen, or that there are facts which authorize that presumption or suspicion. The report only says, if your excellency will permit me to recall it to you, "*that referring to the reclaim for the invasion of Tonintana, the representatives of Mexico stated to this department that his government denied the satisfaction asked, because it had declared that that territory was part of the Mexican soil, and had given him orders to so communicate it.*"

It says "*that on our part it was answered that Mexico was not competent authority to make a declaration of that nature, because the party himself interested in a question cannot be competent to decide it, and because nations cannot make themselves by their own authority, and by the title of their sole declaration, owners of a territory.*"

It says "*that in spite of this the reclaim of the Government of Guatemala was not attended to,*" and it says finally, to demonstrate roughly to what point the consequences might come, if one nation had to abide by the declarations made by the other in dis-

puted matters, that "*it is hidden from no one, that if it were sufficient that the Federal Government of Mexico should declare upon its own authority that to it belonged any part whatever of the territory of Guatemala, the day that it should be pleased to declare that the whole extent of the republic belonged to it, my government would have to acknowledge that resolution, and to recognize the legitimacy of the title which it would create.*" I have not penetrated then, Mr. Minister, into the slippery region of supposition, because I have not said nor believed that that would happen, as I have not been able to believe nor say that Guatemala would ever agree to a resolution to this effect. The only thing I have wished to do, and have done, is to make manifest how inadmissible and absurd it would be to recognize in one of the contending parties the right to itself determine the question by means of the declarations it should see fit to make, imposing them upon the other as obligatory. For this purpose I have made use of a style of argument, very well known, which is that of pointing out the extremes to which the logical application of a principle would lead, in order that its falsity might be recognized, by all who could see the impossibility of accepting its consequences. Your excellency knows perfectly that certain inflexible principles of justice are neither more nor less in small things than in great. If a nation once believes itself to have the right to decide for itself that a span of territory which it disputes with its neighbor belongs to it, with the same right it could decide afterwards that it owned an immense territory which might be the matter in dispute. If in a question between two individuals for a few cents one of them could constitute himself judge, there would be no reason why he should not constitute himself judge in the same manner when the question might be for many millions of dollars. But as it frequently happens that, when treating of the relatively insignificant, all the importance of fixing an unsustainable principle is not clearly seen, it becomes necessary to apply that same principle to a greater extent and to present all that would happen in that case, that there may be no doubt that the principle should be repulsed, although in the very insignificant and small. They are, therefore, as I conceive, two things very different, to suppose, that is to say believe or presume, that a certain thing is going to happen, and to only feign the hypothesis that it might happen, in order to calculate the consequences of a principle. I agree perfectly with your excellency that it cannot be believed or seriously presumed that it could occur to Mexico of her own authority to declare that all the Republic of Guatemala belongs to her, but exactly the circumstance that that deed gives force to the argument presented to the Assembly, choosing the most unrealizable hypothesis, that is to say, demonstrating the inexactitude of a principle by means of the absurd consequences, that would have to be derived from the application of it. Referring to the remarks which your excellency is pleased to make respecting the fact that the President of this republic does not remember having proposed that a new convention be made with the object of reviving those of December 7, 1877, and March 3, 1879, I must inform you that this affirmation contained in the report, in virtue of data furnished me by the President, is in no wise opposed to what my predecessor said to you, on the 29th of June of the last year, about sending instructions to the minister of Guatemala with the object of entering into negotiations concerning the new convention to which your excellency refers, for continuing the study of the frontiers. It has not been said that a new convention is not desired or has not been authorized, because, as the report itself says, even without it no difficulty has been raised to prevent the Mexican engineers from continuing their labors in the territory of Guatemala; and furthermore, although it were unnecessary, there was no objection whatever to a convention limited exclusively to that, unless it should offer to reproduce some of the inadmissible provisions contained in the first. It was said, then, that there would be no objection to making a new convention, which should have the same object of continuing the study of the frontier, but not exactly a new convention in terms leaving subsistent the same ones of the first, which, as is mentioned in the report, encountered opposition in the council of state, and even among some of the members of the Guatemala cabinet, who were not inclined to ratify it, and it was only approved by the President of the republic acceding to the request of the representative of Mexico, who assured him that that convention had no other object than that of a simple reconnoissance. I believe I am able to remove the surprise which your excellency has experienced at the contrast which you have judged to exist between the manifestation that the Government of Guatemala is pleased that Mexico recognizes the juridical fact that the Uriarte-Vallarta convention has legally expired, and the expression of the desire, which the government asserts itself to have, of coming to a prompt and complete arrangement of the question of boundaries. I have not been able to find the difference of meaning between the two declarations, which your excellency supposes. The Government of Guatemala is pleased that Mexico recognizes the expiration of the Uriarte Vallarta convention, because this having expired according to its judgment, as it declared to the Assembly, it is natural to be pleased that the Government of Mexico, with which it was celebrated, shares in the same opinion, so that the two are agreed on that point. It is pleased that this expiration is recognized, because if the convention has no other

object than the study or reconnoissance of the frontiers, it is entirely unnecessary, seeing that this can be done by means of simple notes, and that it is being done even without them, and because, if it have any other object aside from this, as was presumed from the terms in which it was expressed by the individuals of the council, and those of the cabinet, who opposed its ratification, that peril is avoided, without prejudice to the making, if it were believed indispensable, a convention actually limited to its proper object. Therefore, the complacency that that convention, as it was conceived, has expired, and the sincere desire which animates my government that a prompt and complete settlement of the question of boundaries be reached, are perfectly reconcilable. If, in order to reach it, there are any scientific studies which it may be indispensable or useful to make, nothing opposes their being made, if it were agreed to make them, and this were convenient, but without the terms and agreements of the Uriarte-Vallarta treaty being reproduced in the convention, but that it be made in terms which offer no difficulty, and be limited to providing that the studies and reconnoissances required be made. Under the condition of frankness which presides over my relations with your excellency, and of the publicity which my government wishes all acts which interest the country to have, I have no objection to complying with your excellency's desire, that the dispatch which I answer be inserted in the official periodical, to which I promise to send, in the future, reclamations and other matters, which, from their nature and importance, may opportunely be brought to the knowledge of the public.

Reiterating, &c.,

FERNANDO CRUZ.

No. 29.

Mr. Hall to Mr. Frelinghuysen.

No. 9.] LEGATION OF THE UNITED STATES,
CENTRAL AMERICA,
Guatemala, August 29, 1882. (Received September 16.)

SIR: I have just received a communication from the minister of foreign relations in which, on the part of the Government of Guatemala, he requests me to express its gratitude to the Government of the United States for the marked attentions and deferent consideration shown to President Barrios during his recent sojourn in that country. I have time only by this mail to transmit a copy and translation of this communication, and a copy of my reply.

I have, &c.,

HENRY C. HALL.

[Inclosure 1 in No. 9.—Translation.]

Mr. Bátres to Mr. Hall.

MINISTRY OF FOREIGN RELATIONS OF GUATEMALA,
Guatemala, August 29, 1882.

MR. MINISTER: This government has received information that General Don J. Rufino Barrios, President of this Republic, has left the United States of America to travel in Europe.

During all the sojourn of the meritorious General Barrios in the Great Republic of the North, he has been the subject of marked attentions and of unequivocal proofs of deferent consideration on the part of the government of the country you worthily represent.

The free institutions, the marvelous greatness, and the immense development of the American nation are on an elevation with the energy of its citizens, and of the enlightenment of its government; for these reasons, the manifestations made to General Barrios have profoundly excited the gratitude, not only of the government but of the people of Guatemala.

I have therefore the honor to request that you will be pleased to express to your government how great are the obligations this republic entertains for the kind attentions shown to its chief.

This acceptable opportunity affords, &c.,

ANTONIO BATRES.

[Inclosure 2 in No. 9.]

Mr. Hall to Señor Bátres.

LEGATION OF THE UNITED STATES,
Guatemala, August 29, 1882.

SIR: I have the honor to acknowledge the receipt of your excellency's communication of this date, in which you are pleased to convey in expressive and eloquent terms the acknowledgments of the Government of Guatemala for the marked attentions and deferent considerations shown by the government to the President, General Barios, during his recent sojourn in the United States.

By this mail I shall forward a copy of your excellency's communication to the honorable the Secretary of State of the United States, and I am persuaded that the friendly sentiments therein expressed will meet with a cordial response of sympathy and good will towards this republic and its illustrious President.

I embrace, &c.,

HENRY C. HALL.

No. 30.

Mr. Hall to Mr. Frelinghuysen.

No. 18.] LEGATION OF THE UNITED STATES
IN CENTRAL AMERICA,
Guatemala, September 21, 1882. (Received October 23.)

SIR: With reference to your instruction No. 4 of the 9th ultimo, relating to the postponement of the Congress of American States which it was proposed to hold in Washington on the 19th of November of the present year, I have to inform you that, in accordance therewith, I have delivered to the minister for foreign affairs of Guatemala, and have forwarded to each of the ministers for foreign affairs of the other states, a copy of the instruction referred to. My communications to Honduras, Salvador, and Nicaragua, respectively, were addressed on the 9th, and to Costa Rica on the 19th instant, after I had forwarded my credentials as reported in my No. 17. Copies of these communications are transmitted herewith.

Although it was well understood by the Government of Guatemala that the proposed Congress of American states would not be realized, the minister for foreign affairs expressed great regret that a project of such vital importance, to the Central American States especially, should have failed even temporarily. He could but express the hope, however, that the project would be revived at no distant day, and that under the auspices of the United States it would be successfully carried out.

I have, &c.,

HENRY C. HALL.

[Inclosure 1 in No. 18.]

Mr. Hall to Minister for Foreign Affairs of Honduras.

LEGATION OF THE UNITED STATES OF AMERICA
IN CENTRAL AMERICA,
Guatemala, September 9, 1882.

SIR: Through the medium of this legation the President of the United States, some months since, extended to the several governments of the Central American republics an invitation to be represented in a general Congress of American states, which it was proposed to hold at Washington City in November, 1882. The invitation was addressed to your excellency on the 4th January last, and under date of the 20th February your excellency communicated the acceptances of His Excellency the President

of Honduras, and at the same time expressing a high appreciation of the humane object and elevated purposes of the proposed Congress. In that invitation the confident hope was expressed that, by the remote date fixed for the meeting of the Congress, all conflicting questions between the republics of the southern continent would have terminated, and that all would be able to participate in its discussions. Unhappily, that peaceful condition, contemplated as essential for carrying out successfully the object of the proposed Congress, does not exist. These, and other reasons which are set forth in the accompanying copy of a communication from the Secretary of State, by whose instruction I have the honor to transmit it to your excellency, have constrained the President to postpone the projected meeting until some future day.

I would respectfully invite the attention of your excellency to that part of the Secretary's communication in which is expressed the belief of the President, that the fact of such a Congress having been called has not been without benefit; in this belief I am persuaded the government of your excellency will concur.

I improve, &c.,

HENRY C. HALL.

[Inclosure 2 in No. 18.]

Mr. Hall to Minister for Foreign Affairs of Nicaragua.

LEGATION OF THE UNITED STATES OF AMERICA
IN CENTRAL AMERICA,
Guatemala, September 9, 1882.

SIR: Through the medium of this legation, the President of the United States, some months since, extended to the several governments of the Central American republics an invitation to be represented in a general Congress of American states, which it was proposed to hold in Washington on the 22d of November next. That invitation was communicated to your excellency on the 4th January last, and its receipt was acknowledged under date of 14th February; I find no other communication on the subject from your excellency on the files of this office. The Secretary of State now instructs me to inform the governments of the Republics of Central America that the meeting of the projected Congress has been postponed until some future day. The reasons therefor are set forth in the accompanying copy of his dispatch of the 9th ultimo, addressed to this legation, and which by his instruction, also, I have the honor to transmit to your excellency.

I embrace, &c.,

HENRY C. HALL.

No. 31.

Mr. Frelinghuysen to Mr. Hall.

No. 14.] DEPARTMENT OF STATE,
Washington, September 20, 1882.

SIR: Your dispatch No. 9, of the 29th August last, has been received. It transmits a copy and translation of a communication from his excellency Señor Antonio Bátres, the minister of foreign relations of Guatemala, expressing the thanks of the government and people of Guatemala for the attention shown to President Barrios during his recent sojourn in the United States.

In reply I beg that you will assure his excellency the minister for foreign relations that it was a source of much gratification to the President to be able to manifest, by means of the welcome and courtesies extended by this government to President Barrios, the warm sympathy and friendship entertained by the United States for its sister republic of Guatemala.

I am, &c.,

FRED'K T. FRELINGHUYSEN.

No. 32.

Mr. Hall to Mr. Frelinhuysen.

No. 20.] LEGATION OF THE UNITED STATES IN CENTRAL AMERICA,
Guatemala, September 29, 1882. (Received October 23.)

SIR: For several months past the government of Guatemala has been receiving information of projected invasions of its territory by expeditions of armed forces, having for their object the enticing or compelling the inhabitants of the frontier, who are mostly Indians, into subscribing or adhering to public acts of annexation to the bordering States of Mexico; it is said that those expeditions have been preparing in Campeche, Yucatan, Tabasco, and Chiapas. The first of these invasions has taken place during the present month in the department of Peten; all the information in regard to it, thus far received, is contained in the accompanying copies of dispatches and letters to the minister of war of Guatemala, and which have been received during the past week. For convenient reference I inclose a tracing from an authentic map, showing what is believed to be the correct boundary lines between Mexico and Guatemala, and the location of the towns said to have been invaded, as well as those which are mentioned in the inclosures.

The first information comes from the alcalde of an Indian town named Silvituk. As well as can be made out, from a letter dictated by a person who can neither read nor write, it appears that the place was invaded, and that the inhabitants were compelled to go to the village of Tenchac and there declare their adhesion to Campeche. He charges, also, that deception was practised upon them by a priest named Bersunea, "who told them that the Republic of Guatemala was taken." This priest is a native of Campeche, and is well known to the Guatemalan government.

The several communications embraced in the inclosures are numbered from 1 to 5. Nos. 2 and 3 are translations of dispatches from the military commandant of Peten to the minister of war; they report the fitting out of an expedition in Tabasco, with the knowledge and consent of the governor, for the invasion of that department; that one commercial firm has given therefor the sum of $5,000, and another has contributed 60 Winchester rifles; that the expedition would be sent by steamboat from Tabasco to a place called Tonosique, on the Umacinta River, six days from his headquarters. He reports also the invasion of the towns of San Antonio and Concepcion. The remaining letters and telegrams merely corroborate the general news of the invasion. This affair has given the Government of Guatemala a vast deal of trouble and anxiety, besides the expenses which it can illy afford to incur, of sending 500 troops from Coban to the frontier. I have time only by this mail to communicate the facts, and to say that the government is reluctant to believe that the Government of Mexico has any knowledge of these hostile movements. At the earnest solicitation of the President of Guatemala, I cabled to you on the 26th the following:

President Orantes has information of invasion of Guatemalan districts Concepcion and San Antonio by Mexican troops, compelling inhabitants to declare for annexation to Campeche. President hopes invasion not authorized by Mexico. Five hundred troops sent to invaded districts. I apprehend hostilities may ensue unless Mexicans retire.

No suggestion of any action in the premises on your part has been made; it was desired only that the Government of the United States should be advised of these movements.

I have, &c.,

HENRY C. HALL.

[Inclosure 1 in No. 20.—Translation of communications received by the Government of Guatemala in relation to the invasion of the department of Peten by Mexican armed forces.]

Governor Tuz to the prefect and military commandant of the department of Peten.

SAN JUAN SILVITUK, *September* 2, 1882.

SIR: I send this for your information, having received no reply to a dispatch I sent making known to you that forces were coming from Campeche to take possession of these places, which was carried out. A commission having been sent, they made us go down to Tanche (Tenchac) to subscribe to an act of adhesion of these towns to Campeche. Finding ourselves without resources for resistance we had to yield, but we offer not to take up arms against that department. This happened through the deceptions of the Curate Bersumsa, who told us that the Republic of Guatemala had been taken and that we could not resist a state like Campeche. Hearing this we were afraid, and we told them to continue, that we could not, inasmuch as we had taken an oath (to Guatemala probably), but afterwards we learned that you had sent circular orders, and these papers were taken in Tanche (Tenchac) and we had no knowledge of the orders which you sent us. Besides this, orders have been given to collect provisions for the troops that are going to Concepcion, or for your headquarters, I am not sure which.

This is all I have to make known to the respectable headquarters.

For the Governor José Mª Tuz.

SALVADOR PERERA.

[Inclosure 2 in No. 20.—Translation.]

Military commandant department of Peten to Minister of War.

PETEN LA LIBERTAD, *September* 4, 1882.

DEAR SIR AND FRIEND: I write to communicate to you the news given me by a merchant who has just arrived from Tabasco. He says that in the capital of that state, with the knowledge and permission of the governor, a party of bandits is being formed to come and rob the department; that the house of Bulues & Company has given them $5,000, and the house of Valenzuela, 60 Winchesters; that sixty persons were ready who were expecting to complete the number to one hundred, to go out; they will come to Tenocique in a steamer of the house of Bulues; that place is not more than six days from here.

Many of these rogues have been woodcutters in this department; have failed and wish to retrieve their fortunes by robbing and pillaging. The person who has given me this news is very respectable, and from the names of the individuals he mentioned, and whom I know, I believe it, because they are bandits capable of anything that is bad, and one of their pranks is to ruin the house of Jumet and Sastre to which the Bulues are in hostility.

I will do everything possible not to be surprised, and will defend myself to the last. I have no other arms than 25 Remingtons, second class. I have therefore asked for 25 of first class, and I again ask you most earnestly to send them to me immediately with corresponding ammunition. With fifty men well armed I will teach these bandits a lesson.

* * * * * * *

I remain, &c.,

IGNACIO G. SALAS.

[Inclosure 3 in No. 20.—Translation.]

Military Commandant department of Peten to the Minister of War.

PETEN, LA LIBERTAD, *September* 13, 1882.

SIR: I have the honor to annex a dispatch from the alcalde and governor of the town of Silvituk (see No. 1), in which he communicates to me that the towns of the district of San Antonio have been invaded by forces from Campeche, who drew up acts in those towns annexing them to Campeche. Besides this, I have news that in the town of Concepcion, near the boundary of Campeche (state of), and 112 leagues from here, there are two hundred troops of Campeche that are preparing to march on these headquarters. * * * * *

I am, &c.,

IGNACIO G. SALAS.

[Inclosure 4 in No. 20.—Translation.]

Señor Cruz to Minister of War.

COBAN, *September* 21, 1882.

SIR: I have bad news from Peten, given me by a person who has just arrived from there. There are two hundred men from Campeche in the town of Concepcion preparing to march upon the capital of Peten.

I expect you to send me orders and two competent officers for the emergency, I deem expedient.

I am, &c.,

LUIS M. CRUZ.

[Inclosure 5 in No. 20.—Translation.]

[Telegram.]

COBAN, *September* 21, 1882.

To the Minister of War:

At this moment I have received a courier from the prefect of Peten, recommending the following telegram to be sent to you:

"On the 15th instant one of the spies sent to the frontier of Campeche returned, stating that forces from that state to the number of 200 men have invaded the department and are marching upon this capital."

I await your orders,

LUIS MOLINA.

No. 33.

Mr. Hall to Mr. Frelinghuysen.

No. 23.] UNITED STATES LEGATION IN CENTRAL AMERICA,
Guatemala, October 9, 1882. (Received November 4.)

SIR: The cable of the Central and South American Telegraph Company was laid in August last, and was opened to public service on the 1st instant. Its connection with this capital is through the neighboring Republic of Salvador; although it was at first, comtemplated, and a contract to the effect between the Government of Guatemala and the company was entered into for the establisment of a station at the port of San José

As a matter which possibly may interest you, and for future reference, I inclose herewith a copy of the contract referred to, and a copy of the letter of the agent of the company, Mr. Stanley McNider, in which he communicates to the government the reasons which constrain the company not to land their cable at San José, and only at the port of La Libertad in the Republic of Salvador, which is in telegraphic communication with Guatemala; as also the arrangements she has made with that government in regard to the transmission of cable messages.

* * * * * * *

I have, &c.,

HENRY C. HALL.

[Inclosure 1 in No. 23,—Contract.]

The Government of the Republic of Guatemala, represented by its consul-general in New York, the Hon. Jacob Baiz, duly authorized to that effect, and the Central and South American Cable Company, represented by James A. Serymser, its president, have entered into the following contract, subject to the ratification of the Government of Guatemala:

The Republic of Guatemala authorizes the Central and South American Cable Company to establish in the waters of the republic. one or more electro-magnetic submarine cables, to connect the coasts of Guatemala with those of the Republic of Mexico

on the North, and those of the Republic of Central America and Colombia, on the South at such points as may be judged most advisable by the said company, the latter having entered into an agreement with the Mexican Cable Company for the transmission over their lines of all messages to the United States.

The Central and South American Cable Company shall have also the right of building a land line of telegraph to connect the end of their cable to the telegraphic station nearest to its landing, said complementary land line to be used exclusively for the service of the company and the transmission of cable messages, and to enjoy all the rights, immunities, privileges, and exemptions conceded by this contract to the Central and South American Cable Company.

Second. Said company is authorized to at once make the necessary surveys for the laying of the submarine cable, and to place the same, with its accessories and dependencies, such as stations, wires, instruments, &c., &c., within the dominion and jurisdiction of the Guatemalan Republic, and to adopt the plan of operation which the company may decide upon. With this object, said company may employ the engineers, agents, workmen, ships and means of transportation, which, for whatever purpose, it may have in its employ. The route may be changed, but the necessary notification must be given the office of the secretary of public works of the Guatemalan Republic.

Third. The government of the republic cedes gratuitously to the company the lands which belong to the nation, and which it may need for the establishment of the termini of the cable, stations, offices, stores, and warehouses. It also cedes to the company the use of the waters of the ocean within the jurisdiction of the republic which may be necessary for the establishment of the cable. As regards the lands and water belonging to private individuals which may become indispensable for the completion of the work, the cable company is hereby authorized to have them expropriated on grounds of public utility, in accordnace with the laws of the republic.

Fourth. The company is at liberty to select its employés, engineers, and mechanics, and the administration and management of the undertaking shall at all times belong completely to it. The government of the republic is nevertheless free to establish at its own expense agents who will have the right to inspect the books and accounts of the company, and who will inform the government of the state of the company's transactions.

Fifth. The employés and workmen of said company, no matter what their nationality may be, not excepting citizens of the Republic of Guatemala, shall be exempt from all military and public duties whilst in the employ of the company.

Sixth. During the term of fifty years the Government of the Republic of Guatemala will deliver, and cause to be delivered, to the Central and South American Cable Company, when the lines of said company are available for transmitting the same, all telegrams originating or proceeding from within the jurisdiction of the Republic of Guatemala destined for foreign countries, whenever such telegrams can be transmitted to their destination by the Central and South American Cable Company and its connections, as speedily and as cheaply as by any other company or route. During the term of fifty years the Central and South American Cable Company shall enjoy all the telegraphic and other privileges that may be granted to the most favored party or parties, company or companies, by the Government of Guatemala for telegraphic purposes.

Seventh. In its turn, the Central and South American Cable Company is hereby bound to deliver to the telegraph offices of the government of the republic, or at the points of connection, all the telegraphic dispatches that it may receive over its cable for any point in the Republic of Guatemala.

Eighth. The maximum of the tariff which the company may charge for each word sent over the cable shall not exceed seventy-five cents in United States gold coin, between the terminus of the cable in Guatemala and any point in the United States of America, including the charges on all the intermediate telegraph lines; subject to the foregoing conditions, the arrangement of the tariffs shall be left exclusively with the Central and South American Cable Company, which, together with the secretary of public works, shall fix the rules relative to the form and transmission of messages.

Ninth. Besides the agent or representative which the company must have in the city of Guatemala, to transact business with the government of the republic, it may establish in the cities which it may think proper, and where there are government or other telegraph offices, subagencies to receive and collect the telegrams destined for transmission by the cable to points outside of the republic, adding thereto in the collection the rates of transmission of telegrams over the wires of the general government, which stipulates with the cable company that they shall not exceed the lowest rates from time to time charged for any like telegrams, whether through or local, over the national wires.

Tenth. All messages relative to the service and management of the cable company shall be transmitted free of charge over all the lines of the government of the republic. Also all official messages sent over the cable of this company by the President and the minister of foreign affairs of the Republic of Guatemala to its functionaries abroad,

or those sent them by such functionaries, shall be transmitted at one-half the rates charged over the said cable.

Eleventh. All payments for telegrams shall be made in United States gold coin, or its equivalent in silver, at the current rate of exchange in the principal city of the republic. At the end of each month a balance shall be struck of what each party is to pay the other for messages which have been delivered to it for transmission, said balance to be paid at the end of each month following the liquidation. In this must also be considered the amounts that the company may have collected in the places where agencies of the company may have been established in accordance with the ninth clause of this contract.

Twelfth. The establishment of the submarine cable having been declared by the Government of Guatemala a work of public utility, the exportation of the coin (moneys) which the company may have collected for the transmission of messages shall be free of all duties. The telegraph materials, whether national or foreign, which may be necessary for the construction of the company's work and equipments of offices and warehouses, and also the apparatus for the establishment of the submarine cable, and the connecting land lines, referred to in article first, shall be free of all kinds of import or custom-house dues, of excise duties, contributions, or taxes, decreed up to the present, or that may hereafter be decreed by any authority of the republic, no matter what the nature, denomination and object of said taxes, may be, for the term fixed in the sixth clause of this contract.

The cable employed in the construction and establishment of the line, as also the shares which may represent it, shall be exempt from the payment of all established contribution or taxes, or from such as may hereafter be established, during the term fixed in the above sixth clause.

Thirteenth. The company will be empowered to associate itself with any other company, and to transfer or alienate all its rights, privileges, property, and obligations fixed in this contract. In this case the company, of which the present may form part, or association which may be substituted to it, shall enjoy all the rights and privileges herein granted, and for the same reasons will be bound to all the obligations and agreements contracted by the Central and South American Cable Company.

Fourteenth. Any and all doubts or difficulties which may arise in reference to the meaning or execution of this contract, between the Government of the Republic of Guatemala and the Central and South American Cable Company, or the person or association that may be substituted to it, shall be decided by arbitration, each of the parties naming an arbitrator, who together shall have power to appoint a third as umpire, and in the event of this failing to arrive at a decision, then by the tribunals of the republic, in accordance with its laws.

Fifteenth. This concession shall become void for the following causes:

1st. In case that within one year from the date of the ratification of this contract by the Government of Guatemala the company shall not have notified it that the necessary surveys have been made for the establishment of the cable determining its position.

2d. For not beginning within eighteen months from such date of ratification to lay the cable, and for not having it finished and open for public service within nine months thereafter. These terms may be extended by proving that causes beyond control have delayed the execution of the work, in which case the time that the impediment has lasted shall be credited.

3d. On account of any interruption of over one year's duration in the use of the cable between Guatemala and the nearest landing north or south outside the republic.

Sixteenth. The government of the republic stipulates and agrees that the validity of this contract shall not be affected by any law, or laws, which may exist in contradiction to the concessions made in the present agreement.

Seventeenth. At the expiration of the fifty years referred to in the sixth clause of this contract, the company, or its assigns, will continue in possession of its cable, and the privilege of transmitting telegrams on the same terms as enjoyed by others.

In witness whereof, the party of the first part has hereunto subscribed his official name, and affixed his official seal, and the party of the second part has caused the name of its president to be hereunto subscribed, and its corporate seal to be attached, this twenty-ninth day of November, in the year one thousand eight hundred and seventy-nine.

Signed and sealed in presence of—

[SEAL OF CONSUL-GENERAL OF GUATEMALA, NEW YORK.]

JACOB BAIZ,
Consul-General of the Republic of Guatemala.

THE CENTRAL AND SOUTH AMERICAN CABLE COMPANY,
By JAMES A. SERYMSER,
President.

[SEAL OF CENTRAL AND SOUTH AMERICAN CABLE COMPANY, NEW YORK.]

In the presence of—

THEO. I. DE SABLA.

[Inclosure 2 in No. 23.—Translation.]

Central and South American Telegraph Company to the Minister of Public Works.

SIR: I have the honor to inform you that the president of the Central and South American Telegraph Company has instructed me to communicate to you his determination to locate the cable of the company at the port of La Libertad, Republic of Salvador, instead of the port of San José, of the republic, as it first contemplated.

The obstacles to an efficient working of the cable in the said port (San José) are of such a serious nature that after a careful study of the causes, made with the object of overcoming them, if possible, it has been found, as the result of all the measures suggested, that there is too much uncertainty of success to warrant the company in risking the landing of the cable in that port. While the president of the company deplores the unavoidable circumstances which prevent the establishment of a station at San José, it is satisfactory to him to be able to designate the advantages which are offered to the telegraphic line of Guatemala by the contract made by the company with the Government of Salvador, in article No. 12, a copy of which I have had the honor to send you. The president of the company is equally pleased to state that notwithstanding the extra work on the cable caused by the station of La Libertad, he has determined not to vary the tariff of the company from the stipulated prices for San José, it being understood that the improved form of the contract with Salvador is approved of by this government, and that it will be of full force in this republic, and especially the substance of the said article 12.

As it appears impossible to notify all the stations of foreign countries that the official dispatches of the Government of Guatemala enjoy a reduction of 50 per cent. on passing over the company's lines, I am instructed to say that if the government will be kind enough to order a monthly detailed statement to be taken of the official dispatches received by it from its representatives in foreign countries, the company, after verifying the account, will cancel and reimburse it for the said sum of 50 per cent. on all such dispatches.

It is hoped that the cable of the company will be open for public service by the end of the present month, at which time it will offer special facilities to the government of this republic to enjoy the utilities offered by the use of the service.

I am, &c.,

STANLEY McNIDER,
Superintendent.

CHILI.

No. 34.

Mr. Trescot to Mr. J. G. Blaine.

No. 1.] SPECIAL MISSION OF THE UNITED STATES,
Panama, United States of Colombia,
December 12, 1881. (Received December 27.)

SIR: I have the honor to inform you of our arrival at this place. Leaving Aspinwall yesterday by special train, we reached Panama in the afternoon, and went at once on board of the Lackawanna, which will be ready to go to sea to-morrow morning.

It is scarcely necessary, but it only seems proper to say that we were received by Captain Wilson with cordiality, and every possible preparation has been made for our comfort.

There is of course no information of interest in connection with the objects of the mission to communicate from this point. The rumors of occurrences in Peru are almost as vague and contradictory here as at home, and all that we have heard goes to show a continued condition of uncertainty as to whether there is any government in Peru.

I inclose the latest issue of the Daily Star and Herald, containing

the proclamation of what would seem to be a sort of provincial dictatorship by General Carceres, and both in Spanish and English a communication by Mr. Hurlbut to the notables of Lima, whoever they may be. All accounts seem to agree that Pierola has abandoned his claims to executive power, and the last report is that he has left the country.

I beg to call to your attention that the mail contained no communication either to General Hurlbut, General Kilpatrick, or Mr. Adams, instructing them as to the purpose or authority of the special mission. For reasons which are obvious I do not desire to submit to them my own instructions, and there may be some embarrassment should they, in the absence of instructions, decline to recognize the transfer of the negotiations to the special mission.

I know that such instructions were prepared, and I am confident that they were signed and ready for transmission. If they have been intentionally withheld I feel very sure that I would have been so informed, and I hope that you will agree in the conclusion to which I have come, that it is my duty to act as if they had been sent, and, if necessary, to furnish these gentlemen with copies of such portions of my own instructions as specify the duties and the extent of the authority confided to me.

Referring also to your verbal instructions, that I should take charge of the invitations to the Governments of Chili, Peru, and Bolivia to be represented at the proposed congress in Washington, and deliver them to the respective governments at such time as the circumstances of the anticipated negotiation seemed to render most opportune, I beg to inform you that the mail contains no such communications, and it will occur to you without suggestion from me that if at some later date these invitations are transmitted to the ministers at Lima, Santiago, and La Paz, they should be instructed not to present them without my knowledge and approval.

Their delivery might, under circumstances by no means improbable, cause very serious embarrassment in the conduct of the special mission with which I have been charged. A reference to my instructions will, I think, sufficiently explain my meaning.

I consider this so important that I have deemed it proper to telegraph you the fact that these instructions have not been sent, in order that by the next mail I may know whether they have been intentionally kept back, or that, in case of accidental omission, they may be supplied.

I have the honor, &c.,

WM. HENRY TRESCOT.

[Inclosure in No. 1.]

Proclamation of the superior, political, and military chief of the central departments, to the people and the army of his district.

The self-sacrificing army of the center, which has been unable to view with indifference the political movement made by those of the south and of the north, has just joined in that undertaking, and declared unanimously and spontaneously, its determination no longer to acknowledge the authority of Dr. Nicholas de Piérola. It has, moreover, proclaimed me as the Chief Magistrate of the nation, charging me to carry out its views, by prosecuting the war until a peace is concluded with the enemy which will guarantee the honor and the autonomy of the nation.

This declaration, which has been inspired by a feeling of the loftiest patriotism, seeks the accomplishment of no purpose save the complete unification of public sentiment, and the removal, with a firm and resolute hand, of every obstacle likely to prevent so desirable a consummation. Since the power wielded by Dr. Piérola has become an element of discord, which causes the continuance of anarchy in the country, to

put it down is to consult the great interests of our native land, and to save them, by a united effort, from the international conflict which seriously menaces them.

In seconding by my acquiescence the patriotic attitude of the army under my command, I do but follow its sound advice, and encourage with the support of my authority its laudable decision in behalf of the sacred duties that are rendered obligatory upon it by the fate of the country, which is condemned to suffer all the hazards of a war as bloody as it is productive of undeserved disaster to the national arms.

As to my inauguration as President, I desire that it be sanctioned by the sovereign vote of the people and of the central army, for although my elevation to that high office is a great honor, and a tribute of deep gratitude, it shall never cause me to forget the self-sacrifice with which I have always given my services to my country, nor shall it induce me at once to yield to the seductive temptations of power. In fact, I shall not accept that power save under the seal of popular approval, but shall, in the mean time, confine myself to performing the duties of a superior, political, and military prefect of the central departments, whose generous contributions toward the support of the army renders them worthy of the most enthusiastic applause, and of the gratitude of the nation at large.

Soldiers: You, who bear the severest privations in life with a self-denial worthy of the sacred cause which you are defending, because you know that without sacrifices it will be impossible to wash out the stains which are upon the flag that you defend, must not forget that faith and perseverance will triumph, perhaps at no distant day, over the reverses of fortune to which the arms of Peru have been condemned during the war which we are now waging, and remember that, in the midst of adversity and danger, even more than in prosperity, you will constantly be aided and encouraged by your general.

ANDRES A. CÁCERES.

CHOSICA, *November* 24, 1881.

To the Notables of Lima:

GENTLEMEN: At your request I make the following declaration:

Firstly. The United States of America are firmly in favor of the cessation of hostilities between Chili and Peru, and the prompt re-establishment of peace.

Secondly. The United States of America decidedly oppose all dismemberment of Peru, except with the free and full consent of the nation.

Thirdly. They are of opinion that Chili has acquired, as the result of the war, the right to a war indemnity, and that Peru cannot refuse such payment.

The Government of Chili knows that these are the ideas of the United States, but the divisions which exist in Peru paralyze the good offices of the United States, and give a pretext to Chili to elude the action of the United States in conformity with our desires, and to prolong the state of war and the military occupation of Peru. Chili says, "We also desire peace, but there is no one here competent to arrange it." This declaration is unfortunately true. For this state of affairs, the only remedy is to be found in Peru itself.

Union, under whosoever may be elected, will destroy the pretext of Chili; and give to the United States an advantage which they require and of which they will know how to take advantage. In my opinion nothing else will save the country from an indefinite military occupation by Chili.

Peru must save itself, by the sacrifice of personal ambitions on the altar of the redemption of the country.

I remain, gentlemen, yours, very truly,

S. H. HURLBUT.

No. 35.

Mr. Frelinghuysen to Mr. Trescot.

[Telegram.]

DEPARTMENT OF STATE,
Washington, January 3, 1882.

Exert pacific influence. Avoid any issue leading to your withdrawal from Chili.

FRELINGHUYSEN.

No. 36.

[Telegram.]

Mr. Frelinghuysen to Consul at Panama.

DEPARTMENT OF STATE,
Washington, January 4, 1882.

Mail following to Trescot:

President seeks to extend friendly offices impartially to both republics. Exert pacific influence. Avoid issues leading to offense. The Calderon affair and its surroundings can be attended to here.

When you come home, we prefer that you do not return by Buenos Ayres.

FRELINGHUYSEN.

No. 37.

Mr. Frelinghuysen to Mr. Trescot.

No. 6.] DEPARTMENT OF STATE,
Washington, January 9, 1882.

SIR: Since you received your instructions on your departure as special envoy to Chili, Peru, and Bolivia, I have sent you by cable two instructions. As I have not heard of your having received them, and to make their purport more intelligible than the brevity of a telegram would permit, I send this, stating the proper construction of your original instructions, somewhat modifying them, and indicating how they are to be executed.

The President wishes in no manner to dictate or make any authorative utterance to either Peru or Chili as to the merits of the controversy existing between those republics, as to what indemnity should be asked or given, as to a change of boundaries, or as to the personnel of the Government of Peru. The President recognizes Peru and Chili to be independent republics, to which he has no right or inclination to dictate.

Were the United States to assume an attitude of dictation towards the South American republics, even for the purpose of preventing war, the greatest of evils, or to preserve the autonomy of nations, it must be prepared by army and navy to enforce its mandate, and to this end tax our people for the exclusive benefit of foreign nations.

The President's policy with the South American republics and other foreign nations is that expressed in the immortal address of Washington, with which you are entirely familiar. What the President does seek to do, is to extend the kindly offices of the United States impartially to both Peru and Chili, whose hostile attitude to each other he seriously laments; and he considers himself fortunate in having one so competent as yourself to bring the powers of reason and persuasion to bear in seeking the termination of the unhappy controversy; and you will consider as revoked that portion of your original instruction which directs you on the contingency therein stated as follows:

You will say to the Chilian Government that the President considers such a proceeding as an intentional and unwarranted offense, and that you will communicate such an avowal to the Government of the United States with the assurance that it

will be regarded by the government as an act of such unfriendly import as to require the immediate suspension of all diplomatic intercourse. You will inform me immediately of the happening of such a contingency, and instructions will be sent to you.

Believing that a prolific cause of contention between nations is an irritability which is too readily offended, the President prefers that he shall himself determine after report has been made to him whether there is or is not cause for offense.

It is also the President's wish that you do not visit (although indicated in your original instruction you should do so), as the envoy of this government, the Atlantic republics after leaving Chili.

The United States is at peace with all the nations of the earth, and the President wishes hereafter to determine whether it will conduce to that general peace, which he would cherish and promote, for this government to enter into negotations and consultation for the promotion of peace with selected friendly nationalities without extending a like confidence to other peoples with whom the United States is on equally friendly terms.

If such partial confidence would create jealousy and ill-will, peace, the object sought by such consultation, would not be promoted.

The principles controlling the relations of the republics of this hemisphere with each other and with other nationalities may, on investigation, be found to be so well established that little would be gained at this time by reopening a subject which is not novel. The President at all events prefers time for deliberation.

I am, &c.,

FRED'K T. FRELINGHUYSEN.

No. 38.

Mr. Trescot to Mr. Frelinghuysen.

No. 2.] SPECIAL MISSION, UNITED STATES,
January 13, 1882. (Received February 14.)

SIR: I have the honor to inform you that I reached this capital on Saturday, 7th January. On Monday I informed Señor Balmaceda, the secretary for foreign affairs, of my arrival, and was received in public audience by the President this morning at 1 o'clock.

I inclose the brief speech which I made on presenting my credentials, and the reply of his excellency the President. They will satisfy you that you need feel no apprehension of any such issue as you suggested in your telegram, which was received by me the day of my arrival at Valparaiso.

As the mail closes at 6 o'clock, I am compelled to be very brief, when the condition of affairs really requires a very full explanation.

Postponing to next mail a careful appreciation of the very delicate and difficult character of the question with which it has been made my duty to deal, I can only say now that I found here a state of feeling excited far beyond anything that I had anticipated. The popular impression was that I was the bearer of a positive and imperious demand from the United States that Chili should make an immediate peace upon such terms as my government deemed just and proper. And while the Government of Chili did not share in this exaggerated apprehension, there evidently existed in official circles an uneasy uncertainty as to the purpose of the special mission.

I have reason to believe that the remarks which I made at the reception this morning have relieved all apprehension of this sort.

I am afraid that it will be more difficult to correct the extravagant hope which exists in Peru of a prompt, and even forcible, intervention of the United States to secure a peace without cession of Peruvian territory.

The opinion which I think I am justified in forming even at so early a period is that Chili really desires peace on what is believed to be fair and necessary conditions, and that the government would gladly find a solution which would relieve it from a prolonged occupation of Peru. But how far I will be able to suggest a method which will conciliate rival interests and susceptibilities I cannot now say. Chili needs peace, but the destruction of the Calderon government and the arrest of Calderon himself have so disorganized Peru that there is no government with which Chili can treat.

I am satisfied that the more friendly are our relations with Chili the greater will be our opportunity and ability to serve Peru. And I can very well conceive that the present perplexed condition of the relations between the two countries may render the friendly intervention of the United States desirable to both.

After my reception this morning, I told Señor Balmaceda, the secretary for foreign affairs, that if he would accept a suggestion I would propose that, before opening any formal diplomatic correspondence, we should meet informally and have a full and amicable conversation. As I had reason to anticipate, he accepted the suggestion cordially, and I am to meet him at his department on Monday at 12 o'clock.

I inclose also a correspondence between Señor Balmaceda and myself, which will explain itself.

The matter was perhaps not very important, but under existing circumstances there might have been an intention which it was my duty to notice, and I trust that my action will meet your approval.

I ought, perhaps, to add that my reception here, both public and private, has been courteous and cordial.

As the administration removes from this place for the summer to Valparaiso and the adjoining watering-place of Viña del Mar, I will, of course, be obliged to transfer my residence there when they move, which they will probably do some time next week. I have inferred from the telegram received at Panama, informing me of Mr. Blaine's appointment as chargé d'affaires at Santiago, that it was not the intention of the department to modify its original instructions, and that I would be still authorized, in case of necessity, to charge him with instructions to Lima or La Paz.

I have, &c.,

WM. HENRY TRESCOT.

[Inclosure 1 in No. 2.]

Address of Mr. Trescot to the President of Chili.

Mr. PRESIDENT: I have the honor to present you my credentials as special envoy extraordinary and minister plenipotentiary from the President of the United States.

The frank and friendly communication with which I am charged will find, I am sure, a ready response at your hands. If recent occurrences have seemed to disturb that loyal confidence which has hitherto marked the relations of the two governments, the President is persuaded that they are due to some unfortunate misunderstanding which need only be clearly stated in order to be satisfactorily corrected. The Government of Chili will not fail to appreciate the natural and deep interest which is felt by

the United States in the prompt and honorable termination of a war between kindred republics; and I trust that your excellency will also feel assured that in no effort which the Government of the United States may desire to make towards so happy a consummation could there exist an intention to suggest any solution which would compromise the honor, endanger the true interest, or wound the susceptibilities of either of the belligerents.

I venture to hope that when I am permitted to lay before your excellency the views of the President you will find only an earnest desire for the arrival of that time when the powers now at war will resume their peaceful and prosperous progress; when strengthening themselves they will strengthen each other for the preservation of that system of free, strong, and independent republics which, founded in the traditions of the past, is the glory of the present and the security of the future in both Americas.

[Inclosure 2 in No. 2.—Translation.]

Reply of the President of Chili to Mr. Trescot.

Mr. MINISTER: I receive the credentials which you place in my hands with satisfaction, which accredit you as the special envoy extraordinary and minister plenipotentiary of the United States.

You may be assured that in the Chilian Government you will find a sincere and friendly welcome, which will be a merited reply to the loyalty of purpose and sentiments with which personally, and in obedience to your instructions, you come animated.

I am fully confident that our friendly relations with the United States, cultivated by both sides with the constant attention that is becoming to two honorable governments, will be maintained unchanged.

I esteem as a special proof of the sympathy of the Government of the United States, the natural interest that it manifests for the termination of a war which, unprovoked by Chili, has been brought to a final end by means of vigorous measures, and it is pleasing to me to hear from you that any effort made by the President of the United States for such a purpose, would never involve an intention to suggest any solution that might compromise or endanger the interests, the honor, or the susceptibilities of the belligerents.

Chili, an industrious people, that owes its welfare and its progress to peace, and which, beneath its shade, has secured and developed the democratic principles that constitute the immovable basis of the republic, and assure it in the future, could not accept, after the war, a peace that did not comport with its honor or fully secure its rights.

I do not doubt but that your mission will fully correspond with the elevated views of the President of the United States. It is also to be expected, on account of your abilities, as well as of your honorable antecedents. You will meet from this government every facility desirable, and I do not doubt but that you will find a cordial and pleasant welcome from Chilian society.

[Inclosure 3 in No. 2.]

Mr. Trescot to Señor Balmaceda.

GRAN HOTEL YNGLES,
Santiago de Chili, January 12, 1882.

SIR: I have the honor to acknowledge the receipt of your note of the 11th instant, informing me that his excellency the President of the Republic of Chili has been pleased to appoint Friday, 13th of the present month, at 1 o'clock p. m., as the time of my public audience for the purpose of presenting the letters of credence of which I am the bearer.

While thanking your excellency for this communication, I beg that you will allow me to call your attention to an error in my official address, which I am satisfied is only a clerical oversight, but which my government would, I am sure, expect me to have corrected.

I am styled both in the superscription of the official envelope and in the address of the note itself, "Enviado Extraordinario Especial y Ministro Plenipotentiario de los Estados de Norte America."

The style and title of the United States are "The United States of America."

Your excellency's familiarity with diplomatic usage will, I am sure, lead you to appreciate the propriety of the correction which I have the honor to ask.

Renewing the assurance of my highest consideration,

I am, your excellency's obedient servant,

WM. HENRY TRESCOT.

[Inclosure 4 in No. 2.]

Reply of Señor Balmaceda to Mr. Trescot.

REPUBLIC OF CHILI,
OFFICE OF THE MINISTER OF FOREIGN AFFAIRS AND COLONIZATION,
Santiago, January 12, 1882.

SIR: I have just received a note which your excellency did me the honor to address me of this date, for the purpose of asking me to change the address on communications that may be sent to you, by placing "The United States of America" in place of the United States of North America.

The official address which your excellency has seen on the dispatches which I have had the pleasure of sending to you is the same as has always been used by this office in its communications to the legation of the United States. However, I hasten to make a note of your remarks, which shall be attended to in future.

I take advantage of this occasion to reiterate to your excellency the expression of my sentiments of high consideration, with which I remain your excellency's attentive and true servant,

BALMACEDA.

No. 39.

Mr. Trescot to Mr. Frelinghuysen.

[Telegram.]

SPECIAL MISSION,
Santiago, January 23, 1882.

FRELINGHUYSEN, *Washington:*

After several confidential interviews, Chilian minister for foreign affairs disclaims offending by the removal of Calderon. Will accept good offices, and will facilitate conference between the provisional government of Peru and myself, with the exception of Calderon. Peace on the following conditions: Absolute cession of Tarapacá; and, further, an indemnity of twenty millions, payable in ten years; to occupy Arica positively ten years; the indemnity unpaid, cession to Chili; appropriation of guano at Lobos; Peru refusing no further interference by the Government of the United States.

To offer good offices on the conditions named not according to instructions.

I have to suggest, send instructions. Do not interfere on the conditions named. You may recognize the necessity of ceding Tarapacá; if that modification cannot be obtained, carry out your instruction numbered two.

TRESCOT.

No. 40.

Mr. Trescot to Mr. Frelinghuysen.

No. 5.] SPECIAL MISSION OF THE UNITED STATES IN SOUTH AMERICA,
Viña del Mar, Chili, January 27, 1882. (Received March 7.)

SIR: In my last dispatch I informed you that the time for a confidential conference with the Chilian secretary for foreign affairs had been appointed. Since then I have had three conferences with Mr. Balmaceda, in which, with entire frankness, we reviewed the existing

condition of our relations in reference to a possible settlement of the terms of peace between Chili and Peru and Bolivia. The result of these conferences I telegraphed you on Monday last, January 23, and I did so not only because instructions were necessary, but because the secretary distinctly informed me that certain contemplated military movements in Peru were suspended, in hopes that through the good offices of the United States some practical solution might be found. I could scarcely expect such a suspension to be prolonged through the two months (and perhaps more) which would be occupied in the transmission of my dispatch and the receipt of a reply. And I think it is evident that not only the interests of the belligerents but the position of the United States require a prompt decision as to the extent to which the government will further intervene in this matter.

I think the conditions imposed by Chili are hard. I am not at all sure that any representation by the United States will induce Peru to accept them. Chili not only desires, but needs peace. The occupation of Peru is a very heavy drain upon her population, and although its immediate expenses have so far been borne by Peru, the resources of Peru cannot long stand such an imposition, and the cost of the continued occupation and the further military operations which must be undertaken will then have to be defrayed by Chili. Peru may prefer to wait until these embarrassments develop rather than to cede territory at present, but I ought not to conceal from you my conviction, which at present I can only state to you as a conclusion without the reasons, that Peru is powerless to help herself. There is no government and very little prospect of the establishment of a stable one, and her power of military resistance to the Chilian forces anywhere seems absolutely null.

Without the intervention of the United States Chili can, and will, compel Peru to accept any terms she may choose to impose, or she will define her military occupation to suit her plans of annexation and leave the rest of Peru to anarchy.

It is possible that the terms of peace, which I sent you by telegram, may be modified at the earnest remonstrance of the United States. I have very little doubt, not only from what I learn here, but from recent dispatches from Mr. Adams, that Bolivia is willing to make peace at the cost of her littoral on the Pacific. This, with the cession of Tarapacá, is ample indemnity and security for Chili. The imposition of twenty millions more upon Peru as indemnity and the prolonged occupation of Arica seem to me to be very extreme conditions.

But the cession of Tarapacá is unavoidable, unless the United States means to intervene forcibly, and in the present condition of Peru such an intervention would have to be undertaken by the United States, with no assistance from Peru herself which would be worth considering.

It is under these circumstances that I suggested that I should be allowed to recognize the necessity of that cession and offer the good offices of the United States if the other terms were modified. It is unquestionably important to Chili to obtain a peace, and the good offices of the United States will relieve the embarrassment in the way created by the arrest of Calderon and the disorganized condition of the Peruvian Government. The government of Montero, or anybody else which would make peace, through the United States, would be recognized.

But it is difficult to say how far the recommendation of the United States would now be received by any government in Peru. The action of Mr. Hurlbut, whether intentional or not, has so exaggerated the belief in the Peruvian mind of the certainty and efficacy of the in-

tervention of the United States to prevent any cession of territory, that I am not prepared to say that any Peruvian Government will be willing or strong enough to accept such terms, and Chili naturally expects that if she accepts our good offices we will, upon failure of a satisfactory result, refrain from any further interference.

In all this I have assumed that the government has not yet considered the possibility of a forcible intervention on behalf of Peru, and in my telegram I intended to convey the idea that, in my opinion, some modification of the terms may yet be reached which would allow the United States to recommend their adoption to Peru.

I have, &c.,

WM. HENRY TRESCOT.

No. 41.

Mr. Trescot to Mr. Frelinghuysen.

No. 6.] SPECIAL MISSION OF THE UNITED STATES IN SOUTH AMERICA,

Viña del Mar, Chili, January 27, 1882. (Received March 7.)

SIR: On Thursday, January 26, 1882, I sent you a telegram requesting that neither any of General Kilpatrick's dispatches nor my instructions be published.

The reasons for the telegram are these:

In the first interview with Mr. Balmaceda, I called his attention to certain dispatches from Mr. Christiancy, Mr. Osborn, and General Kilpatrick, informing their government of the wish and purpose of the Chilian Government to establish and strengthen the Calderon government in Peru.

General Kilpatrick's dispatches went further, and assured the Department that both the late and present Chilian Government were prepared to conform to the wishes of the United States, give the Calderon government a cordial support, and make no demand for cession of territory until full opportunity had been given to Peru to pay an adequate indemnity.

The secretary appeared a good deal surprised when these dispatches were read, and said that while he was unauthorized to say what had passed between General Kilpatrick and the late government, he could certainly say that no communication on the subject had ever taken place between himself and General Kilpatrick.

Some days after he called on me, and said that he would like to address me a confidential note in reference to Kilpatrick's dispatches, but as the General had detailed private conversations with very prominent and distinguished officials, which they wished to contradict, he did not desire that his letter should be published, and this would be obligatory upon him if these dispatches of General Kilpatrick were published in the United States. I thought his suggestion judicious, for the reason that I had had the opportunity of learning somewhat of the conference to which General Kilpatrick refers. In his dispatch he alluded to a gentleman of great consideration, a member of the Chilian Congress, a very distinguished lawyer, who had held cabinet position, and who has been remarkable for the moderation of his views in regard to the settlement of the terms of peace. He attributes to this gentleman a large

part in the conference and its results. The gentleman to whom I refer assured me that so far as he was present or informed, General Kilpatrick's statements were calculated to give an entirely erroneous impression of what had occurred, and the detail which he gave me satisfied me that the officials to whom General Kilpatrick referred would contradict his most positive assertions.

Mr. Balmaceda admitted that the dispatch was sufficient to justify the action of the United States, and in correcting it he was anxious to avoid an unpleasant issue as to the correctness of the statements of one who was now dead, and whose long and painful illness was a sufficient explanation of any misconception of facts into which he may have been led.

As the papers just received contained the publication of a large portion of the correspondence with our ministers at Lima and Santiago, and as further publication seemed to be expected, he expressed a wish that I would telegraph. I included my instruction in the request, as a large portion of General Kilpatrick's dispatch is incorporated in it. Of course the secretary did not ask that my instructions should not be published, as he has not seen them, and did not know what they contained. But to make the two requests separately would have increased considerably and unnecessarily the cost of the telegram.

In this connection, while I do not doubt that a controlling necessity of which I am not informed, required in the discretion of the Department the recent publication of much of its correspondence with the United States ministers at Lima and Santiago, I ought to say that the publication has not helped me.

The dispatches have all been republished here, with the editorial comments of the home papers, and the impression has been unfortunately made that the administration had some policy which had excited strong popular opposition, and that the government found itself compelled to explain away what was deemed objectionable. The inference drawn from this is that I am not empowered to take anything like strong or positive action in reference to the settlement of the terms of peace. I need not add that some uncertainty on the part of the Chilian Government, as to the extent to which the United States were prepared to go, until in the natural development of the negotiation it was officially informed, would not have been without its influence in recommending a reasonable modification of the terms.

I have, &c.,

WM. HENRY TRESCOT.

No. 42.

Mr. Trescot to Mr. Frelinghuysen.

No. 7.] SPECIAL MISSION OF THE UNITED STATES IN SOUTH AMERICA,

Viña del Mar, January 27, 1882. (Received March 7.)

SIR: I ask to call your attention to a circumstance which may create some embarrassment in the negotiation here.

When I was about leaving Washington the Secretary of State informed me verbally that the President had decided to invite a congress of the North and South American powers to meet at Washington, and (as I understood) that the invitations to the Governments of Chili, Peru, and Bolivia would be placed in my hands to be delivered under such

circumstances as would not interfere with the progress of the present negotiation.

These invitations have been sent to the respective ministers accredited to these governments. I think you will appreciate the impossibility of tendering such an invitation to Chili until the result of the negotiation has ascertained our friendly relation. It would be exceedingly unfortunate if either Mr. Hurlbut or Mr. Adams should deem it incumbent upon them to extend this invitation to Peru and Bolivia, while it was not extended to Chili. I have written to both of these gentlemen, asking that they would take no action until after consultation with me. While I hope that they will recognize the propriety of this request, I cannot be sure that they will regard this invitation as belonging to the duties attached to the special mission, and they may, perhaps, regard its communication as belonging to the ordinary duties of the resident legation, with which I am not authorized to interfere.

I have not deemed it judicious to make any reference to it here, for I am apprehensive that the Chilian Government might construe it into a threat of an appeal against its proceedings, especially if I am finally compelled to carry out instruction No. 2.

I have as yet no reason to suppose that the Chilian Government is informed of the invitation, but as it has been already communicated to some of the governments, it cannot be long before it is generally known. If the instructions which I receive in reply to the telegram enable me to negotiate a modification of the terms of peace which can be recommended to Peru, I shall have no hesitation in communicating to the Government of Chili the purpose of the United States.

But if, unfortunately, that should not happen, and the United States should be compelled to withdraw its offer of good offices, it will be equally difficult to communicate the invitation or to withhold it.

In the first case the expression of our grave disapprobation of the refusal of moderate terms of peace may irritate the Chilian Government to a point that may lead to its refusal, putting aside the apparent inconsistency on our part of the two proceedings. While in the latter case the omission of Chili will be so marked as almost to necessitate the withdrawal of the Chilian minister from Washington and the consequent interruption of our friendly relations.

I cannot expect to receive instructions on this subject in time to be relieved from the responsibility which the circumstances may impose upon me, but I trust the Department will appreciate the difficulty in which such a contingency may involve me.

I have, &c.,

WM. HENRY TRESCOT.

No. 43.

Mr. Walker Blaine to Mr. Frelinghuysen.

No. 7.] LEGATION OF THE UNITED STATES,
Viña del Mar, Chili, February 3, 1882. (Received March 7.)

SIR: Referring to Department's instructions numbered 15 and 17, addressed to Mr. Kilpatrick, I have the honor to inform you that, in accordance with the permission given in a letter received from Mr. Trescot, a copy of which you will receive as an inclosure to his dispatch numbered 8, I availed myself of the interview appointed by Mr. Balmaceda, secretary of state for foreign affairs, with Mr. Trescot, and,

with the latter's permission, accompanied him to Mr. Balmaceda on Tuesday last, the 31st ultimo.

After some remarks upon other topics by Mr. Balmaceda, Mr. Trescot stated to him the object for which I had come, saying to him:

You are doubtless aware, sir, of the friendly interest which the United States has for some time manifested in endeavoring to procure a concerted system of action on the part of the powers of the western continent which might lead to some united policy on their part tending to the perpetuation of peace, the avoidance of international wars, and possibly the settlement of disputed points by arbitration. During the past year the United States has been appealed to by Guatemala to exert its good offices in settling the question of boundary existing between Guatemala and the neighboring Republic of Mexico; it has been requested by Venezuela to assist her in regulating the question of her debt to foreign countries, and I venture to also call to your recollection the happy influence exerted by our ministers to Chili and to the Argentine Republic in aiding the two governments to harmoniously decide a question of boundary, which seemed, at one time, to threaten serious consequences. I mention these facts as showing the spirit in which the United States proffers the invitation, for the purpose of presenting which on the part of his government Mr. Blaine has accompanied me this morning. The invitation is dated in November, 1881, and the date of the congress is fixed for November of the present year. I desired, however, before permitting the presentation of the invitation to Chili, to make sure that the invitations to Bolivia and Peru were presented to those governments at the same time, as, if such an invitation should be presented to one government and not to either of the others, such a fact might, in the present condition of affairs between the three republics, lead to misunderstanding. The letter addressed to General Adams, instructing him to invite the Government of Bolivia, was among the intercepted dispatches which came into my hands last week. As I am now assured that the letter will reach General Adams, and, as I am informed that Mr. Hurlbut has received the invitation for Peru, I have told Mr. Blaine that I thought it best that the invitation should now be given to your government. That the proposed congress has no bearing upon the question of existing hostilities you will see when Mr. Blaine shall have read to you the invitation.

To this Mr. Balmaceda replied:

The subject of a conference of American nations, both including and without the United States, has been brought to the attention of my government by the United States of Colombia some time since, and on other occasions. My government has never yet decided as to what course it would pursue with reference to such matters, and I cannot give any answer without first consulting my government. May I ask what is the full purpose of this Congress.

To this Mr. Trescot replied that no answer would at this time be expected from the Government of Chili; that I was prepared to leave a copy of the invitation; that the government might take the question into consideration, and that the question as to the object of the proposed congress would be best answered by permitting me to read the invitation.

This I was about to do, when Mr. Balmaceda said:

It would, perhaps, be better not to deliver the invitation, as I have received telegraphic information that the Government of United States has abandoned this proposed congress—

and then went on to give further details of his knowledge as to the action of the United States, which it is unnecessary for me to repeat, as they referred to other matters, and are fully set forth in Mr. Trescot's dispatch of this date, numbered 8.

I could not but think that it was possible that the secretary might have been misinformed, but concluded that it was best not to further press the matter. The fact that the United States had proposed such a congress had been brought to his attention, and if, Mr. Balmaceda's information proving incorrect, I should hereafter be instructed to deliver the invitation, the delay in delivering it cannot create embarrassment, as I have desisted from now delivering it at his own request.

Awaiting your further instructions with regard to this subject, I have, &c.

WALKER BLAINE.

No. 44.

Mr. Trescot to Mr. Frelinghuysen.

No. 8.] SPECIAL MISSION OF THE UNITED STATES IN SOUTH AMERICA,
Viña del Mar, Chili, February 3, 1882. (Received March 7.)

SIR: Referring to my dispatch, numbered seven, I have to inform you that after mailing it I received a letter from Mr. Hurlbut, saying that he had already extended the invitation of the President to the Government of Peru to attend the proposed congress in Washington.

This action, of which I had been so apprehensive, rendered it necessary that the invitation should also be extended to Chili, for I had no doubt that the fact would be published in the Lima papers. And by the last mail from Lima, I find that not only the fact but the invitation in full has been published.

I therefore wrote to Mr. Adams, at La Paz, and to Mr. Blaine, who is *chargé d'affaires* here, to say that I desired them to consider my request for delay in the presentation of the invitation as now withdrawn. These letters, with one to Mr. Hurlbut in reply to his information, will be found in inclosures numbered 1, 2, and 3.

As an interview with the secretary for foreign affairs had been appointed for Tuesday last (January 31), Mr. Blaine accompanied me, in order to read the invitation in conformity with his instructions.

Our interview had been arranged for the purpose of comparing our respective drafts of a protocol summarizing the substance of our former confidential conferences, a proceeding to which the secretary seemed to attach considerable importance. After reading over Mr. Balmaceda's draft in Spanish, and receiving a copy for more careful consideration, I explained to him the purpose of Mr. Blaine's visit. To my great surprise, he expressed the wish that Mr. Blaine would not read the communication, and then, turning to me, he said, "It is useless. Your government has withdrawn the invitation." Seeing, I suppose, an expression of astonishment, which I did not pretend to conceal, he added, "Your own instructions have been changed. Your instructions from Mr. Blaine have been published, and others are on their way to you modifying your original instructions in very important particulars. The whole question about Calderon is out of the way, and you are told to be entirely neutral."

I replied, "I do not understand that there is any such thing as a Calderon question between us," and then said, "Do you mean, Mr. Secretary, that both my original instructions and the instructions from the present administration are published?"

He said, "Yes, before you have received them I have a telegram, not in cipher, but open," to which I replied that I supposed so, because I could not see the use of a cipher dispatch in referring to papers already published.

He added, "Yes, they have been published, and will be soon published here in La Patria" (a newspaper). He then went out of the room and returned with a telegram, which, he said, had come from Paris only two days before, and of which he read me the first line, which, as I recollect, was, "The Blaine-Trescot instruction has been published," and then paused, smiling and looking over the telegram, as if he were uncertain whether he should communicate the rest. I said, "As you say that all this is confidential, don't make a half confidence of it. If I am to receive my instructions through you let me know them in full." He

smiled, shook his head, and folded up the telegram, saying, "This, however, will not interrupt our negotiation," and then proceeded, at some length, to state why and to explain what he considered the advantages of the condition of things under the new instructions.

I said to him, "That may all be so, Mr. Secretary, but I think that a diplomatist of ordinary experience would conclude, when he learns that his instructions have been communicated to the government with which he is negotiating, before he receives them himself, that it is time for him to be silent until he does receive them. I think there must be some mistake about all this, but at any rate I must decline to say a word more until I learn from my government what it has done and what it means me to do."

He said that he hoped that I would receive my instructions very soon; that the position was strained and could not be maintained for an indefinite time, that is, Chili could not wait much longer for the United States to decide what action it would take, and then, for the first time in our conferences, his manner became excited and his language somewhat too demonstrative. "Since you have been here," he added, "two occurrences have taken place which I am sure are disagreeable to you as they are to Chili. Mr. Hurlbut has refused to consent to the export of certain goods from the blockaded port of Mollendo, unless we will consent to the import of coal, an article contraband of war, for the use of the railroad, and although we have a right to disregard his refusal, we have not done so. And secondly, Mr. Adams, in Bolivia, has addressed a letter to the government at La Paz, advising them of your mission, and endeavoring to induce them not to make a separate peace before Peru has effected some arrangement, and I do not know how long Chili can bear such interference."

I said, "Mr. Secretary, the facts which you state are grave, so grave that even in the most confidential conversation I will not express an opinion unless you communicate them to me officially; then I will meet the questions you raise."

He said, "I have no intention of doing so; I did not even intend to draw a confidential answer from you."

There the interview ended.

The facts of Mr. Hurlbut's action, as I have heard them, are these: At the blockaded port of Mollendo, on the Peruvian coast, there has been a large accumulation of produce waiting for exportation. An application was made by Mr. Adams, without consultation with Mr. Hurlbut, to the Chilian authorities in Lima for license to certain mercantile firms, German, I believe, to take out their goods. Fearing that such permission might be considered as an abandonment of the blockade, the Chilian authorities asked the consent of the diplomatic corps in Lima to the issue of the license. Mr. Hurlbut replied that the only American interest in Mollendo was the railroad from Mollendo to Puno, and if that corporation were allowed to import the coal and supplies necessary for its wants he would consent.

You will observe that these facts, if correct, furnish ground for a very different estimate of Mr. Hurlbut's action than that made by the secretary for foreign affairs. But as I had no official information, either from Mr. Hurlbut or from the Chilian Government, I deemed it injudicious to enter upon any confidential discussion of the subject.

As to Mr. Adams there has been a general impression here that Bolivia had consented or would consent to a separate peace with Chili, by which, in exchange for her littoral territory upon the Pacific, she would be indemnified by some cession of Peruvian territory. When Mr. Adams returned to La Paz he communicated the purpose of the special

mission to the government, and did, I believe, succeed in inducing them to suspend any such action until it could be ascertained if the good offices of the United States could effect a general and satisfactory solution. In this I conceive that Mr. Adams was only acting in the line of his duty, but I did not deem it proper to discuss it in a confidential or informal way, for reasons which I think will be obvious to you.

Having thus given you a concise account of the interview, you will allow me to express the hope that my conduct will be approved. My original instructions were in the alternative, and if I failed to obtain such a settlement as the President deemed he had a right to expect, I was directed to take certain action, which could not have been agreeable to the Chilian Government. I could not suppose that such an instruction would be made public while I was endeavoring to secure, and not without some hope of success, the amicable solution of this delicate and difficult question. Still less could I believe that if my original instructions had been seriously modified any communication of such change would have been made to the public, or even confidentially to the Chilian Government, before I could possibly have received it. I could not admit, what the Secretary's conversation clearly implied, that I did not represent the wishes or intention of my government, and that he was better instructed than myself as to the purposes of my mission.

But as his language and action were evidently based upon his confident knowledge of these supposed instructions, any further conference with him was useless until I heard from the Department.

As both the telegram which I received upon my arrival at Valparaiso, and that of the 10th of January, which reached me only on the 31st ultimo, the translations of which are herewith inclosed, indicated the propriety of very great caution in the execution of my original instructions, and as my telegram of January 23, stating the terms upon which Chili would accept the good offices of the United States, and a reply to which was absolutely necessary for any further negotiation, has not yet been answered, I have determined to do nothing whatever until the receipt of instructions from the government.

I have, &c.,

WM. HENRY TRESCOT.

[Inclosure 1 in No. 8.]

Mr. Trescot to Mr. Adams.

SPECIAL MISSION OF THE UNITED STATES IN SOUTH AMERICA,
Viña del Mar, Chili, January 30, 1882.

SIR: In my last communication, transmitting the dispatches which had been intercepted, I called your attention to that one in which you were instructed to convey to the Government of Bolivia the invitation from the President of the United States to that government to send representatives to the proposed peace congress at Washington.

In doing so, I asked you to suspend action upon this instruction until you heard further from me on the subject. In the mean time I have been informed by Mr. Hurlbut, the minister of the United States at Lima, that he received similar instructions, and has already communicated them to the Government of Peru. He does not say to whom he has communicated them, as the representative of that government.

You will understand that however inopportune I may consider this communication of Mr. Hurlbut, it renders necessary the communication of the invitation to the other powers.

You will therefore consider the request for delay which I made you as now withdrawn.

I beg to acknowledge your communication of January the 12th, with its inclosure. I am waiting in hourly expectation of telegraphic instruction from the Department, upon the receipt of which I will write you again.

I am, &c.,

W. H. TRESCOT.

[Inclosure 2 in No. 8.]

Mr. Trescot to Mr. Walker Blaine.

SPECIAL MISSION OF THE UNITED STATES IN SOUTH AMERICA,
Viña del Mar, Chili, January 30, 1882.

SIR: The reasons which induced me to ask you to withhold for the present the invitation from the President of the United States to the Government of Chili to take part in the proposed peace congress at Washington are known to you.

The dispatches which I have addressed to the Department upon this subject have also been communicated to you, and you are aware that a similar request was made of Mr. Hurlbut, at Lima, and Mr. Adams, at La Paz.

I have received from Mr. Hurlbut a communication under date of January 18, in which he informs me that he has already communicated this invitation to the Peruvian Government.

However inopportune I may consider this communication, it renders the delivery of the invitation to the Chilian Government at once absolutely necessary.

My request that the invitation be withheld is therefore now withdrawn.

I have written to Mr. Adams to the same effect, and inclose you copies of my communication to Mr. Hurlbut and himself.

I am, &c.,

W. H. TRESCOT.

[Inclosure 3 in No. 8.]

Mr. Trescot to Mr. Hurlbut.

SPECIAL MISSION OF THE UNITED STATES IN SOUTH AMERICA,
Viña del Mar, Chili, January 30, 1882.

SIR: I have to acknowledge your communication of January 18, in which you inform me that you have received and communicated to the Peruvian Government the invitation from the President of the United States to the proposed peace congress in Washington.

The circumstances under which I asked that you would suspend action upon this instruction until after consultation with me were these:

When I was about leaving Washington I was informed by the Secretary that such an invitation would be issued, indeed that it had already been sent to Mexico and Guatemala. I understood that the invitations to Chili, Peru, and Bolivia were to be sent through me to be delivered as the circumstances of the anticipated negotiation seemed to render opportune.

Not finding any such instructions, I telegraphed and wrote from Panama, saying in my dispatch of December 12, "I beg to inform you that the mail contains no such communication, and it will occur to you without suggestion from me that if at some later date these invitations are transmitted to the ministers at Lima, Santiago, and La Paz they should be instructed not to present them without my knowledge and approval. Their delay might, under circumstances by no means improbable, cause very serious embarrassment in the conduct of the special mission with which I have been charged. A reference to my instructions will, I think, sufficiently explain my meaning."

The difficulty which I anticipated must, I think, have occurred to you.

I could not with any fitness extend this invitation to the Chilian Government until I had ascertained what were the relations between us. If the negotiations should terminate in failure, disturbing the amicable relations between us, the invitation would be either offensive or idle: Chili might, if irritated by the position of the United States as defined in my instruction, construe it to mean an appeal to the public opinion of the American republics against her. But still more important was it that this invitation should not be communicated to Peru and Bolivia without at the same time being communicated to Chili.

My hope therefore was that Mr. Adams and yourself would wait until the time came when the invitation could be properly extended to Chili. I thought it not improbable that you would consider the instructions sent you in reference to the special mission as sufficiently indicating that all questions bearing upon this very delicate and difficult negotiation were to be left to my discretion.

But if your instructions did not in your opinion bear this construction, I felt sure that you would, at my request, co-operate with me in such a line of conduct as, in my judgment, seemed necessary here. I can only regret therefore that my request reached you too late, and after you had carried out your instructions as you understood them.

The communication of the invitation to Peru of course now renders it absolutely

necessary to extend the invitation to Chili at once, and I have so informed Mr. Blaine, to whom, as the successor of General Kilpatrick, the invitation is intrusted.

I have also written to Mr. Adams that he will consider my request of delay on his part as now withdrawn.

I am, &c.,

W. H. TRESCOT.

No. 45.

Mr. Trescot to Mr. Frelinghuysen.

No. 10.] SPECIAL MISSION OF THE UNITED STATES IN SOUTH AMERICA,

Viña del Mar, Chili, February 3, 1882. (Received March 7.)

SIR: Referring to my dispatch No. 6, January 24, I have the honor to inclose copies of the confidential letter of Mr. Balmaceda, the secretary for foreign affairs, and my reply thereto.

I have, &c.,

WM. HENRY TRESCOT.

[Inclosure 1 in No. 10.—Translation.]

Señor Balmaceda to Mr. Trescot.

REPUBLIC OF CHILI, MINISTRY OF FOREIGN AFFAIRS AND COLONIZATION,
Viña del Mar, January 27, 1882.

SIR: In the confidential conference that we had in the Department of Foreign Affairs in Santiago, on the 16th of the present month, you made known to me the text of the official communication which Mr. Kilpatrick, the minister plenipotentiary of the United States in Chili, addressed to his government under date of August 15, last year. The moment I heard it read I observed to you that it contained serious errors and grave inaccuracies, asking you for a copy of it. You had the kindness to send it to me on the 17th day of the present month of January, with a confidential letter in which you copy for me a part of another official communication addressed by Mr. Kilpatrick to his government on the 2d of December, last year.

In the confidential conference that we had on the 19th of this month, in the same Department of Foreign Affairs in Santiago, I pointed out to you the errors of fact and inaccuracies of appreciation which the said dispatches of Mr. Kilpatrick to his government of the 15th of August and the 2d of December contained.

I think proper, considering the delicate diplomatic situation of the two governments, to put into writing the verbal declarations made to you by the undersigned in the two conferences referred to.

With regard to the communication of the 15th of August, I told you that the present President of the Republic, Mr. Santa Maria, and Mr. Joseph Francis Vergara, the minister of war and navy, on the 15th of August, 1881, and now minister of the interior, had never spoken to Mr. Kilpatrick about the war on the Pacific, nor about the instructions of Mr. Blaine, nor about the conditions of peace, nor had ever made, as it is natural to understand, a promise of any kind to Mr. Kilpatrick; that my honorable predecessor, Mr. Valderrama, and Messieurs George Huneeus and Luis Aldunate, having met together in the house of Mr. Kilpatrick, to whom he wished to make known his instructions, Mr. Huneeus confined himself to reading and translating them, without either Mr. Valderrama or Mr. Huneeus or Mr. Aldunate giving or pronouncing any opinion about them; that Mr. Kilpatrick, having spoken to Mr. Aldunate, before he was secretary of the treasury, about the advantage of Chili, bearing in mind the wishes of his government with regard to the not annexing of Tarapaca by means of a legislative act only, but rather by the natural consent of a definite treaty of peace, Mr. Aldunate stated to him that it was an idea worthy of being taken into consideration, which reply Mr. Aldunate personally informed me of about the time the said conversation took place; and finally that the ideas that constitute the basis of the purposes disclosed in the instructions of Mr. Blaine had not been accepted, as is alleged, by any of the persons referred to in the dispatch of August 15, 1881.

In reference to the note of the 2d of December, 1881, I told you that Mr. Kilpatrick

had spoken to me three times before my taking charge of the office of secretary of foreign affairs about the instructions of Mr. Blaine, and that on the three occasions I answered Mr. Kilpatrick that I had formed no opinion about them, leaving it to the government of Mr. Pinto, or that of Mr. Santa Maria, about to be inaugurated, to pronounce an opinion about any matter of exclusive jurisdiction of public power; that after the 18th day of September, 1881, the day on which I was named secretary of foreign affairs, although I saw Mr. Kilpatrick several times, then very sick and almost always in his bed, I did not speak with him about the instructions, or the wishes of his government, but in reference to the note of October 8, 1881, which I was obliged to address to him in consequence of the publication of the memorandum of Mr. Hurlbut to Mr. Lynch. In that communication the government of Santa Maria defined its future policy in the war, and the necessary conclusions of peace; and on my part there was neither then nor afterwards not even an insinuation that would authorize Mr. Kilpatrick to give to his government the assurances that he gave in the name of Chili in his dispatch of the 2d of December, 1881.

I added that Mr. Kilpatrick wrote to his government under the constant influence of a specially grave infirmity, and that he composed his dispatches falling into very serious and without doubt involuntary errors. No reason is seen, nor can any be imagined, that would induce him to act in an opposite manner to that which he always displayed for the maintenance of friendship and cordiality between the Governments of Chili and the United States; but I would fear to compromise that same good and cordial understanding if I did not put into writing the declarations substantially as I made them to you in the conferences of the 16th and 19th of the present month of January.

The note of the 22d of November, 1881, of Mr. Blaine to General Kilpatrick, made public, and in which is copied a part of the dispatch of Mr. Kilpatrick to Mr. Blaine, on the date referred to, of the 15th of August, 1881, especially obliges me to proceed in this manner.

With expressions of the highest consideration, &c.,

J. M. BALMACEDA.

[Inclosure 2 in No. 10.]

Mr. Trescot to Señor Balmaceda.

SPECIAL MISSION OF THE UNITED STATES IN SOUTH AMERICA,
Viña del Mar, Chili, January 30, 1882.

SIR: I have the honor to acknowledge the receipt of your letter of the 27th instant, marked "confidential."

I found in it a fuller and more precise statement of the general remarks which you made at the conference between us when the dispatches of General Kilpatrick were communicated to you.

When I called your attention to these dispatches I of course recognized your right to correct any misconception of the purpose or language of the government into which General Kilpatrick may have fallen, and I have now to express my satisfaction at the courteous manner in which you have pointed out what you consider to be such misconception.

Your frank recognition at the conference that the action of the United States Government was properly based upon the confidence which it naturally reposed in its diplomatic representative in Chili, and, resting upon this information, was guided by due consideration of the rights, interests, and supposed wishes of Chili, relieved this incident of any unpleasant influence upon our discussions, and will, I hope, render any further reference to it unnecessary.

But you will readily understand that in receiving and transmitting to my government this communication, it is my duty to guard against any admission that General Kilpatrick was alone or altogether in error.

After many years of varied, brilliant, and honorable service he died in the discharge of his duty. How far the long and severe illness, to which you refer with such kindly and honorable sympathy, incapacitated him for the grave responsibility with which he was charged, I am unable to judge, especially when you call to my attention that between the dates of the dispatches of August 17 and December 2 there passed between you and himself the communications of October 8, in which were manifested the most cordial and complete understanding between you.

That there has been a very serious misunderstanding upon a very important subject between gentlemen alike honorable and responsible, there can be no doubt.

But owing to the death of General Kilpatrick it only remains for me to accept with entire good faith the statements you have made, and to express the conviction that if General Kilpatrick were alive to compare his recollections with yourself, and the distinguished gentlemen whom you represent, the apparent misunderstanding would be explained to the satisfaction of all the parties concerned.

With sentiments of the highest consideration, &c.,

WM. HENRY TRESCOT.

No. 46.

Mr. Frelinghuysen to Mr. Trescot.

[Telegram.]

DEPARTMENT OF STATE,
Washington, February 4, 1882.

On the 4th of February, 1882, Mr. Frelinghuysen instructed Mr. Trescot by telegram, received by the latter February 6, that the United States only proposed to give counsel and aid to Chili in any negotiations which that country might desire to make; that Chili must herself determine whether or not she would accept such aid, but that in no event would the United States take part in negotiations based upon the surrender of Tarapacá, and a further indemnity of twenty millions, as such a demand is considered exorbitant. The opportunity had arrived for Chili to show herself just and magnanimous.

No. 47.

Mr. Frelinghuysen to Mr. Trescot.

[Telegram.]

DEPARTMENT OF STATE,
Washington, February 21, 1882.

On the 21st of February, 1882, Mr. Frelinghuysen instructed Mr. Trescot, by telegram received the same day, that the President had been hoping to hear further from Mr. Trescot; that the United States would assent to a liberal war indemnity, but that consent was not to be given to the cession of Tarapacá without first communicating with the Department; that should Chili persist in her demand for such cession, the creditors of Peru might possibly maintain that the revenue of Tarapacá had been already hypothecated, and that the President desired to urge moderation on the part of Chili.

No. 48.

Mr. Frelinghuysen to Mr. Trescot.

No. 7.] DEPARTMENT OF STATE,
Washington, February 24, 1882.

SIR: I have received your No. 1 of the 13th ultimo, announcing your arrival at Santiago, and the opening negotiations with the Chilian Government. Before answering this dispatch it will be convenient to repeat the substance of the telegrams between you and the Department since the 1st of January, to make sure that they have been properly received.

On the 3d of January I telegraphed you to exert a pacific influence, avoiding any issue which might lead to your withdrawal from Chili.

On the 4th of January I telegraphed you, to the care of the American consul at Panama, to be forwarded thence by the mail leaving that day,

that the President desired to extend his friendly offices, impartially and alike, to both countries, and I again directed you to exert a pacific influence, and to avoid issues leading to offense.

Being myself in negotiation with Mr. Martinez, I informed you that the Calderon affair and its surroundings would be attended to here, and I told you that we preferred that when you came home you should not return by way of Buenos Ayres.

It was nearly three weeks before we heard from you, during which time I assume that you were occupied in carrying out your instructions as modified by my telegrams.

On the evening of the 23d of January I received a cable from you, the main part of which was easily decipherable; some parts, however, were more difficult. As rendered, it informed the Department that all intention of offending by the removal of Calderon was disclaimed; that our good offices were accepted, and would facilitate conferences with the Peruvian Government, with the exception of Calderon; and that Chili was prepared to make peace on the condition of the cession of Tarapaca, and payment of $20,000,000 within ten years, Arica to be occupied until payment, and to be ceded to Chili in case of default in payment, the guano at Lobos to be appropriated by Chili. In case Peru should refuse peace on these conditions the United States were not to interfere further. You further stated in this telegram that your instructions did not authorize you to offer the good offices of the United States on these conditions, and suggested that I should instruct you not to interfere on these conditions; that you might recognize the necessity of ceding Tarapaca, but if these modifications could not be obtained, I should instruct you to carry out your instruction No. 2.

As I have before remarked, it took some time to decipher this dispatch. On the 26th of January I received from you another cable informing me that the Chilian minister for foreign affairs was of opinion that General Kilpatrick's dispatches and instructions should not be published. Before the receipt of that cable both houses of Congress had called for all the correspondence relating to Chili and Peru, and all had been prepared and sent in in response to the call.

On the 2d of February you cabled me that it was desirable that I should reply to your telegram of the 23d, and I did so on the 4th of February. I said that this government proposed only to give counsel and to aid in negotiations, and that Chili must determine for herself whether it was wise to listen to such counsel. I reiterated the substance of the former instructions of the President that the United States would not take part in negotiations which are based upon both the surrender of Tarapaca and the payment of $20,000,000. I told you that the demand was looked upon as exorbitant, and that it was thought that the time had come when Chili might be magnanimous and just. Again, on the 21st instant, I telegraphed you that the President and the Department had been hoping that you would report progress by cable. I instructed you that a liberal war indemnity which was not unjust would be assented to by this government, but that the cession of Tarapaca could not be assented to unless you should first cable here for further instructions, and I told you that if Chili should insist upon that cession it was not impossible that the creditors of Peru would maintain that its revenue was hypothecated to them. I further instructed you that the President urges moderation on the part of Chili. Since then I have received nothing from you until your No. 1 arrived a few days since.

My telegrams, if they have reached you in an unmutilated form, will have possessed you of the substance of the President's wishes in this

matter. He is very desirous of having the good offices of the United States made available for the restoration of peace; but he is not willing to become the medium for a proposal, which, in his judgment, is so onerous that it cannot be entertained by Peru. He is still of the opinion that it would be the part of far-sighted wisdom in Chili to accept from Peru the payment of a just indemnity in money, guaranteed, if insisted on, by temporary occupation of territory rather than peremptorily to demand cession of territory.

On the other hand, he remains convinced that the United States has no right which is conferred either by treaty stipulations or by public law to impose upon the belligerents, unasked, its views of a just settlement, and it has no interests at stake commensurate with the evils that might follow an interference, which would authorize it to interpose between these parties, further than warranted by treaties, by public law, or by the voluntary acts of both parties.

If Chili is indisposed to listen to friendly advice on this point, the President, as my cable has already informed you, will not take part in negotiations which are based upon both the surrender of Tarapaca and the payment of a large indemnity.

To demand of Peru the surrender of the valuable province and the payment of $20,000,000 in ten years, with a disorganized government, provinces in anarchy, and a despoiled territory, is to ask for that which Peru in all probability cannot render.

The President cannot permit this government to be a party to such a demand. If there is to be no modification in those terms, it will be the part of wisdom in Chili to carefully consider to what the refusal may lead. The President feels that you may, without impropriety, frankly, but in a friendly spirit, bring some of these considerations before the minister of foreign affairs in your conversations with him.

At present, it is understood that the whole of Peru, west of the main chain of the Andes, is in the occupation of Chili, and that the care and expense of maintaining government, of preserving society, and of enforcing order, is thrown upon the armed hostile occupiers. The representatives of Chili are at pains to show us that not only has all pretense of a military opposition disappeared, but that all governmental organization is dissolved, and that the Chilian bayonet is all that saves Peru from anarchy.

Admitting this to be so, one of four things must follow:

First. That the armed occupation is to be permanent; or

Second. That the invader is to be driven out by force; or

Third. That Chili will withdraw, retaining so much of Peru as it desires and leaving the rest to its fate; or

Fourth. That an honorable peace will be made, leaving to Peru a government and a name.

Chili can hardly desire the first of these alternatives, with the questions that are sure to follow between it and the creditors of Peru.

To the second, it will undoubtedly answer that it can never take place; but it will be well to recall events that have taken place in the history of these two powers which tend to show that even the apparently impossible does occur.

The third alternative seems to be impracticable. If it were practicable, Chili could not justify herself before the world; and in any event should it eventuate in the occupation and absorption, without the assent of Peru, of territory whose productions are pledged to creditors of that power, this could not be done without raising grave questions in the

future of Chili which the United States, as a friend of that energetic and industrious people, would wish to avoid.

The fourth alternative is, in the opinion of the President, the wisest and safest course. He is anxious, for many palpable reasons, that it should be brought about through the peaceful influences which the Constitution intrusts to the Executive.

The traditional attitude of the United States toward the sister republics of this continent is one of peace and friendly counsel.

When as colonies they threw off their political connection with Europe, we encouraged them by our sympathies. By the moral weight of our official declarations we prevented intervention either to restore old political connections with Europe, or to create new ones. The policy we then adopted has been since maintained. While we would draw them nearer to us by bonds of mutual interest and friendly feeling, our sole political connection springs from the desire that they should be prosperous and happy under the republican form of government which they and we have chosen. We aim to be regarded as a disinterested friend and counselor, but we do not assume to impose our wishes upon them, or to act as arbitrator or umpire in their disputes, unless moved to it by the wish of both parties, or by controlling interests of our own.

Restraining our action within this sphere, the President desires you to continue to urge upon Chili, both by the arguments suggested in this instruction and by such other pertinent arguments not inconsistent therewith as may occur to you from your knowledge of the subject, the wisdom and justice of making peace without the acquisition of Tarapaca, unless the province should eventually become Chilian through the inability of Peru to pay a reasonable war indemnity to be agreed on.

The President does not presume to indicate what that indemnity should be; but he leaves a discretion with you to assent to the tender of the good offices of the United States to Peru on the basis of a very liberal indemnity to Chili, if Peruvian territory is spared. If Chili insists on retaining any of the territory whose products are or may be claimed by creditors of Peru as mortgaged or hypothecated, or in any other way made the basis of a loan, the President is not willing to involve the United States in the complications which might ensue. He prefers to reserve to this government the full right to determine what its action shall be, should such complications hereafter arise.

I am, sir, your obedient servant,

FRED'K T. FRELINGHUYSEN.

No. 49.

Mr. Walker Blaine to Mr. Frelinghuysen.

No. 8.] LEGATION OF THE UNITED STATES,
Viña del Mar, Chili, February 24, 1882.

SIR: Referring to my dispatch numbered seven, dated February 3, 1882, with regard to the presentation of the invitation to the President of the Republic of Chili to send two delegates to a congress of the American powers, to be held in Washington, in the month of November next, I have the honor to inform you that on the 22d instant I waited upon Señor Balmaceda, Chilian secretary of foreign affairs, and read the invitation to him, stating to him at the same time what arrangements the Government of the United States proposed to make

to facilitate the labors of the congress, a statement which I afterward embodied in a memorandum note addressed to him, a copy of which is herewith inclosed.

So many erroneous statements as to the object of the proposed congress, translations among others of articles published in the United States, were being constantly circulated in Chili, that it appeared to me that possibly unfortunate impressions as to the purpose and attitude of our government might be created. I was also well assured that the invitation had been presented to every government in South America except Chili. I telegraphed on the 13th instant, to Mr. Osborn, our minister resident near the Argentine Republic, inquiring as to whether he had received the invitation referred to, and, if so, what disposition he had made of it, and he replied that he had received the invitation and at once presented it to the government to which he is accredited. I awaited the receipt of the mail of the 21st instant, and, receiving no instructions upon the subject, thought it best, under the circumstances, to present the invitation.

Mr. Balmaceda informed me that he would be pleased to consider the invitation as having been presented at the earlier date, when I made the attempt to do so, but at his request desisted; that the laudable purpose for which the congress was invited could not but meet the approval of all nations, and that he would transmit the reply of his government at as early date as should be practicable.

Trusting that my action will meet your approval,

I have, &c.,

WALKER BLAINE.

[Inclosure in No. 8.]

Mr. Walker Blaine to Señor Balmaceda.

LEGATION OF THE UNITED STATES,
Viña del Mar, Chili, February 22, 1882.

SIR: In transmitting, at your request, a copy of the invitation of the President of the United States to his excellency the President of the Republic of Chili to send representatives to a congress of the nations of North and South America, which it is proposed to hold in Washington in the month of November next, I beg to furnish to your excellency some indication of the arrangements which my government proposes to make to facilitate the labors of the congress.

I am instructed to say that it is designed that the congress shall be held under the auspices of the Government of the United States, which, to that end, will supply a suitable hall for the meetings of the commissioners, will take charge of all the necessary arrangements, and, at its own expense, will meet all the material requirements of the congress, reporting and interpreting the proceedings and printing the resultant protocols in Spanish and English for the use of all the parties. Secretaries, clerks, and copyists in both languages will be provided and paid by the United States—no expense being left to the invited countries except the maintenance of their own commissioners.

I avail, &c.,

WALKER BLAINE.

No. 50.

Mr. Trescot to Mr. Frelinghuysen.

[Telegram.]

SPECIAL MISSION OF THE UNITED STATES,
Santiago, February 24, 1882.

FRELINGHUYSEN, *Washington:*

Chili will not modify peace terms, alleging they are, in deference to the United States, better than the offer at Arica and Lima. Terms are

extreme, but Chili is so strong, Peru so weak, that mere friendly intervention will not have effect. Telegraph at once definite instructions what to say and what to do. No use remaining here. Shall I go to Peru and to Bolivia? Shall Blaine remain or return?

TRESCOT.

No. 51.

Mr. Trescot to Mr. Frelinghuysen.

No. 12.] SPECIAL MISSION OF THE UNITED STATES IN SOUTH AMERICA,

Viña del Mar, Chili, February 24, 1882. (Received April 4.)

SIR: I inclose herewith translation of the cipher dispatch received by telegraph on February 22, and the answer in cipher which I sent to-day.

I would have cabled earlier, but that I have been endeavoring from the date of your cipher instruction of February 4 to obtain some modification of the terms which I sent you in telegram of January 23, as those which Chili would accept as the basis of an offer of good offices from the United States.

You may assure the President that I have urged upon the Government of Chili the wisdom of moderation in the terms which it demanded. But Chili is determined to have Arica and Tacna, as well as the territory south of the Quebrada of Camarones (Tarapacá). The indemnity of twenty millions, with this region of country as a pledge, was only an indirect mode of securing the country itself.

Peru has not, that I can see, any capacity of resistance in herself, and Chili will not yield to any merely friendly persuasion.

I ought to inform you that when, upon the receipt of your telegram of the 22d instant, I asked the secretary for foreign affairs for a positive answer whether his government would modify the terms of peace, he said that the government was very much embarrassed by the publication of my cipher dispatch to you of 23d January, of which he had learned by telegram. He said he considered (as I must admit he had a right to consider) that this was a confidential communication to the Government of the United States of the terms which Chili proposed to offer, and that however he might feel disposed to listen to the suggestion of modification, the publication committed his government to their proposals; that they could not now be changed without admitting that they were originally exorbitant, and had been modified under pressure from the United States.

Of the sincerity or force of the argument I shall say nothing now, as it will be my duty to furnish you with the history of this negotiation. But throughout the secretary has assumed to be in possession of fuller and more accurate knowledge of the wishes and intentions of my government than I have received.

The communication to the Government of Chili of the resolution of the Government of the United States that it will not take part in any negotiation based upon the conditions proposed, and the reply of the Government of Chili that it is not prepared to modify these conditions, practically closes this mission. The formal reply to my communication I will receive to-morrow, but I shall not answer it until I have received an answer to my telegram of to-day. I do not feel at liberty, under recent instructions from the Department, to carry out instruction No. 2,

and prefer that the President should instruct me what language I shall use under the circumstances.

I trust that these instructions will also convey my recall and direct me whether on my way home I shall stop at La Paz and Lima, in order to communicate to the Governments of Bolivia and Peru that the Government of the United States has been forced to withdraw its good offices. Under the instructions with which I was originally furnished, I would feel it to be my duty to do so.

I have, &c.,

WM. HENRY TRESCOT.

No. 52.

Mr. Frelinghuysen to Mr. Trescot.

[Telegram.]

DEPARTMENT OF STATE,
Washington, March 1, 1882.

On the 1st of March, 1882, the Secretary of State telegraphed Mr. Trescot that the President preferred that for the present himself and Mr. Blaine should remain and report the situation; that a communication of the condition of affairs had been made to Congress, and that the President desired that no opportunity should be lost to carry out his views as indicated.

No. 53.

Mr. Trescot to Mr. Frelinghuysen.

[Telegram.]

SPECIAL MISSION OF THE UNITED STATES,
Santiago, March 4, 1882.

Instructions carried out scrupulously. Chili will not modify peace terms. Publication of my instructions and my confidential telegram have rendered modification impossible. Will stay as ordered, but my presence at Washington, with information, will be more useful than remaining here. What communication of the intention of the United States shall be made to Peru and to Bolivia?

TRESCOT.

No. 54.

Mr. Trescot to Mr. Frelinghuysen.

No. 13.] SPECIAL MISSION OF THE UNITED STATES IN SOUTH AMERICA,
Viña del Mar, Chili, March 4, 1882. (Received April 17.)

SIR: In dispatch No. 8, I informed you that the secretary for foreign affairs of Chili desired that the conclusions reached in our own confi-

dential conferences should be summarized in a protocol. I therefore prepared for his consideration a draft of the three conferences. For this he then proposed to substitute a draft of his own. Upon comparison I found that while there was a general substantial agreement there was wanting in both a sufficiently full statement of the points of discussion, each of us having naturally dwelt more particularly on the views which he had himself expressed. I therefore wrote to Mr. Balmaceda a letter, inclosing draft of protocol confined simply to the points agreed upon. After mutual correction we adopted the protocol which you will find in Inclosure No. 1.

I suggested to Mr. Balmaceda that any protocol was premature, as its whole value depended upon the acceptance of the conditions of peace which had been referred to the Government of the United States for consideration.

But he thought that it would restore the confidence of the people and Government of Chili in their old and amicable relations with the United States if it could be understood that the incident of the arrest of Señor Garcia Calderon had been satisfactorily explained; that the special mission was an act purely of friendly intervention, and that Chili was willing to accept the good offices of the United States, if the United States could find, in the terms offered by Chili, the basis of such a settlement as they could recommend to the adoption of Peru. When the terms of the protocol were finally settled I found to my surprise that Mr. Balmaceda desired it should be sealed as well as signed. I called to his attention that this instrument was not an act, but a record. It was simply an agreement that the good offices of the United States would be accepted by Chili, if offered upon certain conditions which I had no authority to accept, and which I only undertook to refer to my government for consideration and instruction.

He said that it was always the custom in the Chilian foreign office to seal as well as sign protocols, and as the protocol itself provided for the reference to and decision by the Government of the United States, and had absolutely no vitality independent of the consent of the Government of the United States, I agreed to execute it as he desired.

In the conversations which preceded the protocol I had read to Mr. Balmaceda the dispatches from Mr. Christiancy, Mr. Osborn, and General Kilpatrick, in which they had informed the Government of the United States that the Government of Chili had resolved to support the Calderon government in Peru, and in which General Kilpatrick had even gone further and assured the Government of the United States that the Government of Chili was willing to negotiate with Calderon on the basis of a war indemnity without demanding a cession of territory, except in the case Peru was unable to furnish a reasonable indemnity. While, as you have been informed by earlier dispatches, Mr. Balmaceda was of opinion that General Kilpatrick had fallen into very grave errors in his estimate and statement of the views and intentions of the Chilian Government, he frankly recognized that, acting upon those dispatches from diplomatic representatives entitled to its confidence, the Government of the United States had in its relations to the Calderon government acted in the interest of peace, and with impartial regard to the rights of both belligerents. He was frank, earnest, and explicit in his disavowal of any intended offense to the United States, and claimed that Chili was only acting in the legitimate exercise of her belligerent rights. That Chili had tolerated rather than recognized the Calderon government, but that it had never rested on any substantial basis, and that its issue of paper money, the constant desertion of its soldiers to

the Peruvian troops still in the field, its maintenance of resistance to the Chilian Government, and its communication with the armed forces scattered over Peru from Lima, which was in the military occupation of Chili, rendered its continuance inconsistent with the existing authority or the military purpose of Chili.

I told Mr. Balmaceda that if the Calderon government was recognized by Chili as sufficiently strong, constitutional, and representative to make a treaty of peace and cede Peruvian territory to Chili, it was a government sufficiently strong, constitutional, and representative to be recognized by neutrals, and that a reasonable deference to the friendly relations of the United States would seem to have required notice of the intended action of Chili, but I could accept the disavowal as sufficient to withdraw the subject from further discussion and would transmit the explanation to the United States.

But assuming that this explanation would be satisfactory as to the special action of Chili in forbidding the exercise of any authority of the Calderon government within the lines of Chilian military occupation, and even in the arrest of Señor Garcia Calderon, who was commander-in-chief of the Peruvian forces, he could scarcely expect the Government of the United States to recognize as a belligerent right the abolition of all government in Peru by military order and a consequent anarchy which would render any peace impossible; that the neutral powers had rights, interests, and old established relations with Peru, and so long as they respected the belligerent rights of Chili they were only exercising their own equally clear right in recognizing a government with which they could communicate, and if the United States found itself able to offer its good offices, the acceptance of the offer must imply the recognition of a government with which to deal in Peru as well as in Chili.

When we came to reduce this conclusion to an article in the protocol I found that Mr. Balmaceda was not willing to express himself with the same fullness as in our conversation. I was desirous that the form of words used should represent distinctly the ideas expressed above. I would have insisted on this form but that—

1. I was instructed by your telegram received at Valparaiso, January the 4th, 1882, not to make an issue which should terminate the negotiation.

2. I was instructed by your telegram of the 10th to Panama and thence by mail, which, however, only reached me on the 31st, that "the Calderon affair and its surroundings can be attended to here when you come home."

3. When I pressed upon Mr. Balmaceda my preference of the form I had presented, he replied to me by showing me the correspondence between yourself and Mr. Martinez, in which, under date of the 7th January, you expressed the satisfaction of the Government of the United States with the explanation he had made you on behalf of the Chilian Government. He said he considered that question as settled, and I did not feel authorized to press the matter further. I regret that I had not been informed of this correspondence, for if I had been I should not have considered it proper to reopen the discussion of a subject which had been settled by my superiors at home.

You will observe, however, that in the protocol Mr. Balmaceda confines the exercise of belligerent rights to prohibiting the authority of the Calderon government within the lines of Chilian occupation, and declares that Señor Garcia Calderon is a "prisoner of war," while he at the same time expresses the readiness of the Chilian Government to

facilitate the communication of the diplomatic representative of the United States with any Peruvian authority whom he may recognize as authorized to negotiate with him.

The rest of the protocol needs no comment. My instructions had no reference to forcible intervention, and the avowed purpose of my mission was if possible to bring the belligerents to a friendly understanding, and there could therefore be no possible objection to saying so.

I was also expressly instructed not to offer the mediation of the United States unless it was solicited, and mediation of necessity implied the consent of both belligerents.

The terms of peace being such as Chili was willing to offer, it was her right to state them in such language and to such extent as she deemed proper.

And you will observe that the withdrawal of the United States from any further intervention is conditioned upon her approval of the terms and her willingness to recommend them to Peru. In case, as has happened, that the Government of the United States does not approve the terms, and declines to offer good offices upon such conditions, entire liberty of action is reserved.

When the protocol had been signed, I communicated to Mr. Balmaceda the decision of the United States, which you had made known to me in the telegram of the 4th of February. When I made this communication Mr. Balmaceda desired that I would so modify the language as not to qualify the terms offered. I was willing to substitute a milder phrase for the word "exorbitant."

But this did not satisfy him. He said he thought that the offer of good offices having been accepted in a friendly spirit, and in special deference to the United States, we ought not, in withdrawing it, to censure the terms in such emphatic language.

The withdrawal itself was sufficient. You will remember that the language used was: "The Government of the United States can take no part in any negotiation based both upon the cession of Tarapacá and a further indemnity of twenty millions."

In the mean time I received your telegram of the 22d, in which you clearly limited the language of the telegram of the 4th.

From the first it might have reasonably been inferred that you would offer your good offices in the alternative, either upon the cession of Tarapacá or upon a liberal war indemnity, but not upon both combined. Your last telegram only authorized me to accept a liberal war indemnity as the basis of good offices.

I avail myself, therefore, of Mr. Balmaceda's objection to withdraw the letter and substitute that which follows the protocol, and which simply says that the United States cannot offer its good offices on these terms.

This letter, although dated the 14th, the same date as the original, was not really agreed upon until after the receipt of your telegram of the 22d. (Inclosure No. 2.)

On the 24th Mr. Balmaceda replied that the Government of Chili was not prepared to make any modification in its terms. (Inclosure No. 3.)

This fact I immediately telegraphed you. This subject is therefore now before you upon the decision of the Government of Chili that it will not modify the terms of peace.

I deemed it proper, while informing Mr. Balmaceda confidentially of your estimate of the terms of peace, not to commit the government by any formal qualification, but to leave you entirely free, upon learning

the refusal of the Chilian Government to modify them, to instruct me what answer to make.

I therefore wait to know whether I shall simply accept the refusal and withdraw the good offices, reserving to the government entire liberty of action as to the future conduct of Chili, or whether I shall state the reason of the withdrawal, expressing to the Government of Chili the belief of the United States that such terms are exorbitant, or whether I shall take any other action such as the Government of the United States shall consider called for under the circumstances.

I have the honor, &c.,

WM. HENRY TRESCOT.

[Inclosure 1 in No. 13.]

PROTOCOL.

At several conferences held in the department of foreign relations at Santiago, on the 16th, 19th, and 20th days of January of the present year, 1882, Mr. William Henry Trescot, special envoy extraordinary and minister plenipotentiary of the United States of America, and Mr. José Manuel Balmaceda, minister of foreign relations of the Republic of Chili, discussed in a frank and confidential manner the relations of the United States with Chili and Peru, and of the two last-named nations with one another, exchanging their views in terms reciprocally friendly, and mutually agreed to draw up in this single protocol the conclusions which they reached in the aforesaid conference.

First. Mr. Trescot having stated that the United States recognized the government of Garcia Calderon on account of friendship towards the contestants and in the interest of peace, and that the government of his country, being the only one which has recognized the aforesaid government by accrediting a representative near to it, might suppose that the arrest of Garcia Calderon was an act of offense to the United States; and Mr. Balmaceda having said that Chili abolished the authority of Garcia Calderon within the radius occupied by her forces, and arrested him with no purpose of offense to the United States or any other neutral power, and making use of her legitimate belligerent rights, there was no necessity for further discussion of this incident.

Second. The armed intervention of the United States in the war which Chili is carrying on with Peru would not be a diplomatic proceeding of the nature of that which is to-day exercised by Mr. Trescot, nor in consequence would it correspond to the friendly spirit of his mission; and mediation does not conform to the convenience of the belligerents, nor is it solicited by Chili. The United States eliminates from all discussion the possibility of armed intervention, and would offer mediation only in case that the belligerents showed a desire to obtain it, and when its acceptance would lead to results satisfactory to both belligerents.

Third. The incident of the arrest of Garcia Calderon, the armed intervention and the mediation of the United States, being points eliminated from all discussion and definitely concluded, Chili declares that, as a mark of mutual friendship and confidence, she would accept, if they should be offered, the good offices of the United States in the contest with Peru, provided that the United States, in the exercise of its good offices, accepts the conditions of peace which Chili would be disposed to concede to the enemy; and with the understanding that, if the United States should not obtain the consent of Peru to the conditions of peace, which serve as the basis of its good offices, in that case the action of the United States between the two belligerents should terminate.

Fourth. If the good offices of the United States shall be offered and accepted in the manner heretofore set forth, Chili would give, through her civil and military authorities, every possible facility to Mr. Trescot for communicating with any Peruvian authority or persons to whom he may judge fit to offer his good offices, with the exception of Garcia Calderon, who is a prisoner of war.

Fifth. The bases in conformity to which Chili will make peace, reserving to herself every right and entire liberty of action, if they should not be accepted by Peru, are as follows:

1st. Cession to Chili of all the territory of Peru situtated to the south of the Quebrada de Camarones.

2d. Occupation of the region of Tacna and Arica for ten years, Peru being obliged to pay twenty millions of pesos at the expiration of that time. If at the expiration of that time Peru should not pay to Chili the twenty millions of pesos, the territory of Tacna and Arica should remain, *ipso facto*, ceded to and incorporated in the territories of the Republic of Chili. Peru may fix in the treaty of peace a time longer

than ten years, in conformity with the conditions just before stated. If Arica returns to the power of Peru, it shall remain forever unfortified.

3d. Chili shall occupy the islands of Lobos, so long as there shall be guano upon them, and both the net product of the guano taken from them and that from the mines discovered and being worked in Tarapaca shall be equally divided between Chili and the creditors of Peru.

Finally, Mr. Trescot deemed it necessary to telegraph to his government, and await a reply, in order to state whether he can offer to Chili the good offices of the United States in the manner and conditions herein stated.

In testimony of which the special envoy extraordinary and minister plenipotentiary of the United States of America, and the minister of foreign relations of Chili, have signed and sealed the present protocol, in duplicate, and in the Spanish and English languages, in Viña del Mar, the eleventh day of the month of February, in the year one thousand eight hundred and eighty-two.

WILLIAM HENRY TRESCOT.
J. M. BALMACEDA.

[Inclosure 2 in No. 13.]

Mr. Trescot to Señor Balmaceda.

SPECIAL MISSION OF THE UNITED STATES IN SOUTH AMERICA,
Viña del Mar, Chili, February 14, 1882.

SIR: It having been understood between us, as noted in the protocol of the conferences, that I should transmit to the Government of the United States the conditions of peace which the Government of Chili was willing to offer to Peru, through the good offices of the United States, in order to make known to you, if the United States would tender their good offices to the belligerents upon such conditions, I have the honor to inform you that I have made the communication to my government, and am instructed to reply. The Government of the United States, while desirous to offer its impartial co-operation and its friendly aid in such negotiations as may lead to a peace satisfactory to both belligerents, cannot tender its good offices upon the conditions proposed. I am further instructed to inquire whether the Government of Chili is prepared to make any modification of these terms; and, if so, what they are.

Awaiting the honor of a reply, and with the assurances of my highest consideration, I am, &c.,

WM. HENRY TRESCOT.

[Inclosure 3 in No. 13.—Translation.]

Señor Balmaceda to Mr. Trescot.

RÉPUBLIC OF CHILI,
MINISTRY OF FOREIGN AFFAIRS,
Viña del Mar, February 24, 1882.

SIR: I have the honor to acknowledge the receipt of your excellency's note dated the 14th of this month, in which you are pleased to communicate to me that, in compliance with the agreement in the conference as testified by the protocol of the 11th instant, you have addressed a communication to your government; that your excellency is instructed and authorized to answer in its name; that you were desirous to offer its impartial co-operation and its friendly aid in the negotiations of peace with Peru; that it cannot tender its good offices upon the conditions proposed, and that you are instructed to inquire whether the government of Chili will modify them, and in what terms.

In the protocol of February 11th instant, the basis was laid down in accordance to which my government would accept the good offices if, for the purpose of procuring peace on the conditions proposed, they were expontaneously offered to it. That I am now instructed that the Government of the United States does not offer its good offices, which is an answer to my government, to the question that was left pending in said protocol.

And finally I have the honor to say to you, in the name of his excellency the President of the Republic, that we maintain the conditions of peace set forth in the document already cited, because they are demanded by absolute rigorous necessity on account of expenses, and the damages caused by the war, the security of the Republic, and its future stability.

The Government of Chili has ever had confidence in the neutrality and good friendship of the Government of the United States. This friendship and confidence is

strengthened without doubt by the declarations contained in the protocol of February 11, and also by those contained in the note which I have the honor to reply to, in which, besides saying that your government will not offer its good offices, you express the desire to tender its impartial co-operation and its friendly aid in the negotiations that may lead the belligerents to the termination of the struggle.

With sentiments of the highest consideration, I have the honor to subscribe myself, your excellency's obedient servant,

JOSÉ M. BALMACEDA.

No. 55.

Mr. Trescot to Mr. Frelinghuysen.

No. 15.] SPECIAL MISSION OF THE UNITED STATES IN SOUTH AMERICA,
Valparaiso, Chili, March 16, 1882. (Received April 22.)

SIR: Referring to my dispatch No. 10, in which I inclosed correspondence between Señor Balmaceda and myself, in relation to General Kilpatrick's dispatches of August 17 and December 2, I have now the honor to inclose a publication in the Diario Oficial, together with translation of the same.

I have, &c.,

WM. HENRY TRESCOT.

[Inclosure in No. 15.]

Abstract translated from the official newspaper of the Chilian Republic, dated Santiago, Wednesday, March 8, 1882.

RECTIFICATION.

In the instructions given by Mr. Blaine to the honorable minister of the United States in Chili, Mr. Trescot, mention is made of the notes of August 15 and December 2 of last year, addressed by General Kilpatrick to his government.

In the conferences that took place on the 16th, 19th, and 20th of January, the text of those notes was made known, and at the moment Señor Balmaceda objected, immediately addressing an official note to the special envoy of the United States, in which he made serious rectifications.

The said notes having been published in the United States, and reference having been made to them in the instructions which Mr. Blaine gave to Mr. Trescot, it is expedient to make known officially, whilst awaiting the arrival of the original documents published in the United States which will authorize the publications of the rectifications by Mr. Balmaceda in Chili, that those notes contain substantial errors.

This rectification being of as much interest for the exactness of the foreign transactions of the Government of Chili as for the cordial and correct understanding with the United States, it is proper that it should be made known that the Government of Chili has objected to the notes of August 15th and December 2d of last year from Mr. Kilpatrick to his government.

No. 56.

Mr. Frelinghuysen to Mr. Trescot.

No. 8.] DEPARTMENT OF STATE,
Washington, March 18, 1882.

SIR: I inclose for your information a copy of a dispatch (No. 337) of the 25th October last from our minister at Buenos Ayres, and a copy of a memorandum which accompanied the same, of action taken by the

Argentine Government, in the latter part of 1880 and thereafter, in the direction of a friendly mediation between the belligerent governments on the west coast of South America by states which, in consequence of their geographical position, would be able to tender the same with as little delay as possible.

I am, &c.,

FRED'K T. FRELINGHUYSEN.

[Inclosure 1 in No. 8.]

Mr. Osborn to Mr. Blaine.

No. 337.] LEGATION OF THE UNITED STATES,
Buenos Ayres, October 25, 1881. (Received November 29.)

SIR: In an interview with Dr. Irigoyen, minister for foreign affairs, at his residence, on the 1st instant, he read to me from a copy of a memorandum just received from a personal friend in Peru, addressed by General Hurlbut, our minister at Lima, to Admiral Lynch, commanding the Chilian forces in Peru, and at the same time he informed me that he had, in November last, addressed a dispatch to the court of Brazil, indicating the same policy to be pursued as that foreshadowed by Hurlbut's memorandum, copies of which dispatch were sent to the Argentine representatives at Washington and London, to be laid before those two governments.

The minister now informs me that a reply has just been received from Lord Granville, approving of the suggestions made or policy indicated, and, as the Argentine representative did not leave a copy with the honorable Secretary of State, he has furnished me with a memorandum referring to the matter, and also with an official translation of the same, which I have the honor to inclose herewith.

I have, &c.,

THOS. O. OSBORN.

[Translation.]

MEMORANDUM.

A dispatch was sent by this department under date of November 9, 1880, to the Argentine minister to Brazil, signifying to him that after the unexpected outcome of the noble mediation offered to the belligerents of the Pacific by the United States Government, it deemed it expedient to renew a friendly mediation to be carried out by such states as should, on account of their geographical position, be able to tender it with as little delay as possible. In accordance with these views the minister was directed to bring the matter to the knowledge of the Brazilian Government.

An indication was likewise made that, should the suggestion be met by the approval of said government, this one was of opinion that the Cabinet at Washington ought to be made acquainted with this initiatory step in case that Cabinet should be inclined to repeat the tender of good offices so nobly proffered on the former occasion.

These instructions were amplified by a dispatch under date of the 10th of the same month, in which the Argentine minister was informed that the President desired that, at the conference the minister was to propose and base on the previous dispatch, he was to prudently enter into considerations on the conduct observed by the allied governments in the Paraguayan war, a war in which said governments did not think that they were, as victors, entitled to exact any cession of territory.

He was reminded at the same time that it was advisable that he, in his conversation with the Brazilian foreign secretary, should lay stress on the fact that this government has no further interest beyond the achievement of peace; inasmuch as the upshot of the campaign will in no wise influence the solution of the boundary question.

The Argentine minister to Brazil acknowledged the receipt of these dispatches, and in pursuance thereof had an interview with the foreign secretary at which the latter manifested his desire to be made acquainted with the opinion of the Argentine Government as to the *modus operandi* and manner of making the mediation an efficient one. He added that he likewise, for his part, accepted the idea of bringing this to the knowledge of the United States Government.

Some time after, on December 14, this department communicated to the Argentine minister to Brazil that the President would view with satisfaction the acceptation by the Brazilian Government of the proposals he had made, and we counseled the suggesting to the foreign secretary the advisability of a spontaneous procedure on our

part, without waiting for any indication from the interested governments. At the same time we authorized said minister to come to an agreement as to the manner of making the mediation an efficient one.

The Argentine minister confirmed the statements of his previous dispatch as regards the acceptance of the idea of mediation by the Brizilian Government, adding that he believes that the government has but little faith in the matter, on account of the advanced stage of the war. He also stated that he had had an interview with the foreign secretary, whom he asked if his government was disposed to admit the joint mediation establishing the following principles as appertaining to American international law: to mitigate the horrors of war, and not to exercise the right of conquest?

The Brazilian minister objected to make these declarations on the ground that they might prove a difficulty in the way of the mediation.

The dispatch winds up by saying that he is satisfied that the imperial government is only disposed to tender an officious mediation on the condition that it be asked for by the interested parties.

On December 18, this department forwarded to the Argentine minister to Brazil the bases on which it considered the mediation ought to be offered. They are as follows:

I.

This government is of opinion that after appointing their extraordinary representatives, these ought to offer the Chilian Government the joint mediation, and that the offer should be also made to the allies, setting forth the friendly motives that give rise to this act of sincere cordiality, and signifying their readiness to favor by every means consonant with their duty, and with the impartial policy of their governments, the possibility of the belligerents being able to bring about by just and equitable settlements the end of the war that is dividing them.

If, as is probable, the joint mediation is accepted, the opportunity would have arrived for mediating ministers to enter upon their mission, encouraging a meeting of plenipotentiaries of the belligerents on board of some man-of-war of the imperial navy, or, in defect of this, on some other neutral one.

The meeting brought about, the mediating minister might open and preside over the conference, whereat they would solicit proposals for peace, and have them discussed; in this they will use every effort to bring about the result that is so vehemently desired.

They will favor by their friendly wishes every proposition that shall be conducive to the end aimed at, the re-establishment of peace. But they are on no account to abet any such as may tend to segregate territory or to lower the rights that any of the three belligerents may have as sovereign owner.

On the contrary, should any such propositions be advanced (and, as it is natural, rejected) by any of the belligerents, the mediators are bound to use their discreet and friendly efforts toward their being substituted by others that do not imply destruction of sovereign rights nor territorial annexation.

Besides this kind of proposals, they are to contribute with all the prudence the question calls for to the acceptance of such as may be submitted as conducive to bringing about peace.

The Chilian Government in its circular dispatch to foreign governments solemnly declares that it only aims at guarantees of peace for the future, and indemnification for damages and expenses incurred.

After setting forth in these words the pretensions of the Chilian Government, the mediators can base their good offices on that *exposé*, and their efforts are to aim at the guaranteeing of peace by suitable associations of circumstances, without at all affecting the sovereign rights and territorial integrity of the belligerents.

As regards the payment of indemnifications and the manner of efficiently carrying them out, the mediators will employ all such means as may be suggested to them by their ability, to arrive at an agreement as to said demands which cannot be the cause of a desolating war.

II.

Should the belligerent governments, or any of them, refuse to attend by means of plenipotentiaries any further conferences, the mediators will ask for such bases or propositions as might be conducive to a solution, and these they will submit to the other belligerent, and thus continue negotiations.

The ministers should follow the same preceding rules; that is to say, they will decline to be the channel for exactions of territorial cessions which would be tantamount to conquest. Should any such propositions be brought forward they are to be forthwith substituted by others calculated to bring about the lasting peace that is aimed at.

In the event of some one of the belligerents unfortunately insisting on maintaining said propositions of annexation as essential, and should refuse to substitute them, the mediators will declare that they are not able to submit them and that they prefer bringing their mission to an end.

III.

If, as is not probable, the mediation should not be admitted by some of the belligerents, the mediators will signify that their governments believe the duty fulfilled which had been imposed upon them by the reigning spirit of humanity in this century and by that of fraternity which ever characterized the relations between the states of America. That they deeply regret the obstacles they have met with and which they submit to the consideration of their governments and to that of impartial nations, who will judge alike of the difficulties and of the responsibility they carry with them.

IV.

Should the belligerents definitely refuse (which would not seem to be possible) to put forward propositions that may be made use of as a basis for discussion, the mediators might for their part tender some such as the following:

Joint payment to Chili by Peru and Bolivia of the expenses of the war, the amount of which would be fixed by joint commissions.

Restoration of goods and lands taken from private individuals.

Indemnification for damages caused.

Guarantees for peace and the payment of amounts due.

Submission to the arbitration of some impartial power of all preceding questions, and of all such as may arise in connection with such treaties as may be stipulated.

On January 17, the Argentine minister communicated to this department that, according to what had been signified to him by the managing director at the foreign office, no answer had up to then been given to his dispatch of December 25, as the minister had intended to tender his resignation, but that, as the circumstances no longer existed, it would be answered as soon as possible.

On the 9th of April, the Argentine minister sent a dispatch to the Brazilian department for foreign affairs, and informed it that this government had directed him to renew the proposition to mediate between the belligerents, and that the basis previously indicated is the same that the Argentine Government again submits.

Later on, under date of July 17, the Argentine minister gave notice that he had received a communication from the foreign secretary, in which the latter declared that, some short time before his receipt of the note of April 9, the news had come from London that the French, English, and Italian Governments, at the request of that of Peru, were about to use their good offices for the re-establishment of peace.

This was borne out by the answer given in the House of Lords to a question put to the government by Sir Charles Dilke, under secretary of state for foreign affairs.

The Brazilian foreign secretary added that a complication was rising. The mediation proposed by the Argentine Government had to be offered to the three belligerents and would be met by that of the three European powers asked for by one of the allies, as it would seem, without the assent of the other.

The imperial government was obliged to await information to throw a light on the procedure of the three powers referred to.

It now knows that they have already given instructions to their diplomatic agents in the west coast, and that they would recognize the authority of Garcia Calderon, as soon as ever they became convinced that the Chilian Government was in treaty with him.

In view of this state of affairs, the imperial government proposes, in answer to the suggestion of mediation of a joint nature made by the Argentine minister, a tender of good offices without indicating the conditions of peace, and this offer will be made either to Chili and Bolivia alone, if Peru had accepted European intervention, or to all of the three, in case that intervention had not been accepted.

On August 28, this department addressed the Argentine minister and manifested that this government was disposed to tend, with that of Brazil, toward the acceptance of the good offices to which the dispatch of the 15th refers.

He was authorized to agree to the form to be adopted for the opening steps, and was empowered to accept the indications contained in the dispatch of the 15th.

He is recommended to draw, as far as possible, the basis together as submitted for the good offices, previously tendered for the joint mediation, but should this not be possible, he may accept the starting-point proposed by Mr. de Souza.

In August (31st), 1881, the Argentine minister informs the department that Mr. Caballero, the Bolivian minister to Brazil, had signified to him that the Bolivian government not only accepts the offer of good offices in its own name, but in that of the dictator of Peru.

BUENOS AYRES,
Foreign Office, September 8.

A true translation from the original in this department.

C. A. SHOOLBRED.

OCTOBER 22, 1881.

No. 57.

Mr. Trescot to Mr. Frelinghuysen.

[Extract.]

No. 19.] SPECIAL MISSION OF THE UNITED STATES
IN SOUTH AMERICA,
Lima, Peru, April 5, 1882. (Received April 26.)

SIR: I must ask that this dispatch be considered entirely confidential. My reason for the request will, I think, be apparent and satisfactory when you have read it.

In dispatch No. 13, under date March 4, I communicated to you the protocol and the consequent correspondence between Señor Balmaceda and myself. The position then established was that the Government of the United States declined to offer its good offices upon the conditions stated in the protocol, and the Government of Chili declined to modify those conditions.

From the date of that correspondence up to the time of my leaving Valparaiso, I had several full and frank conversations with the Chilian secretary of state.

I cannot undertake to repeat these discussions in detail. It will be sufficient to say that on the Sunday before my departure (18th March) the secretary expressed to me in the strictest confidence his willingness to consider the following modifications of his original terms, if Peru would propose them as a substitute:

* * * * * * *

You will see that these are very considerable concessions. Of course I told the secretary that I had no authority to accept them as the basis of an offer of good offices; that I could not even say that, as a matter of individual opinion, I would advise their acceptance, and that I did not believe they would be accepted. He thought they would be. All that I felt authorized to do was to bring them confidentially to the notice of the provisional government of Peru.

* * * * * * *

I have, &c.,

WM. HENRY TRESCOT.

No. 58.

Mr. Trescot to Mr. Frelinghuysen.

[Telegram.]

SPECIAL MISSION OF THE UNITED STATES,
Lima, April 12, 1882.

Will leave on the 15th, being absent a few days, to see Montero. I believe bases negotiations between the belligerents can be attained. Is most important I should be in Washington, D. C., before opening of the negotiations to inform you of facts. Telegraph answer Lima.

TRESCOT.

No. 59.

Mr. Trescot to Mr. Frelinghuysen.

[Telegram.]

SPECIAL MISSION OF THE UNITED STATES,
Lima, May 3, 1882. (Received May 8, 1882.)

Undecipherable telegram contained substance my dispatch No. 19.

I had an interview with Montero. He is desirous of peace; preliminary to the negotiations he asks that Government of Chili recognize the provisional government, and grant armistice, allowing the meeting of Congress. Have urged compliance upon the Government of Chili. Still waiting reply. I consider it important that I should be in Washington before the negotiations are opened.

Please to reply by telegraph immediately.

TRESCOT.

No. 60.

Mr. Trescot to Mr. Frelinghuysen.

No. 24.] SPECIAL MISSION OF THE UNITED STATES
IN SOUTH AMERICA,
Lima, Peru, May 3, 1882. (Received May 26.)

SIR: Referring to my dispatch No. 19, April 5, I have to inform you that I left Lima, as telegraphed, on the 15th for Casma, the only open port on the Peruvian coast, and thence proceeded to Huaraz, the seat of the provisional constitutional government of Peru. The journey having been safely accomplished, no reference to its incidents is necessary. But it is perhaps proper that I should call your attention to the fact that it is scarcely proper that the minister from the United States to Peru should reside within the lines of the Chilian military occupation, and if, as he ought, he goes to the seat of the provisional government he must be prepared to meet great discomfort. Huaraz is an old Indian town one hundred miles from the coast, lying between the Black Cordillera and the Cordillera Nevada, which is the line of perpetual ice. The elevation is high enough to occasion great uneasiness to persons unaccustomed to such elevation, and it can only be reached by the mountain road traveled by the pack-mules which bring to the coast the ore from the silver mines of the province.

I undertook the journey because I believed that the presentation of my letters of credence would strengthen what is unquestionably the real Government of Peru, recognized and obeyed at present by all parties of the Peruvian people. It is, of course, confined in its sphere of authority, is feeble in strength, and restricted in resources, but it is an actual government, and represents whatever Peruvian nationality still exists. You will remember that while accepting the disavowal of the Chilian Government of any intended offense in the arrest of Señor Calderon, I took the ground that such action could not destroy the existence of the Government of Peru, and I felt bound to do whatever was necessary to maintain the recognition of that government by the United States.

I was also authorized, as dispatch No. 19 has informed you, to indicate to the Peruvian Government that certain modifications in the terms of the protocol would be considered by the Chilian Government. The only government in Peru which, under my instructions, I was authorized to recognize was the provisional government; and if there was any possibility of bringing the belligerents to a negotiation for peace, the matter was too important for any but direct communication with the President of Peru himself.

I arrived in Huaraz on Saturday, the 22d April, and presented my credentials to General Montero on Tuesday, the 25th. I inclose the very brief speech which I made, and the President's reply. (Inclosures No. 1 and 2.) After several conferences with Señor Alvarez, the secretary for foreign affairs, he addressed me the letter which you will find in inclosure No. 3.

I found General Montero and his advisers fully alive to the importance to Peru of peace, and perfectly aware that under existing circumstances peace could only be obtained at the cost of great sacrifice. But I am obliged to modify to some extent the impression which I had received in Lima, and which I communicated in dispatch No. 19. I am still of opinion that three-fourths, if not more, of the business men on the coast would make peace at the cost of the cession of Tarapaca, and I believe that the government also recognizes the necessity. But the government is not strong enough to act independently, and the papers from the United States containing Senator Call's speech and your instruction to me of the 24th February have induced a belief here that a practical intervention of the United States to save cession of Tarapaca is still possible.

There is not, in my opinion, the slightest possibility of Peru's contributing anything to such a result. She depends entirely upon the action of the United States. I cannot express too strongly my conviction that the time has come when the United States Government should say distinctly to Peru to what extent it is prepared to act practically in the way of intervention. As I wrote you, the Chilian Government is perfectly aware that if the United States determine to intervene forcibly, the opportunity must be given to Peru to pay a sufficient indemnity and save the cession of territory. But Chili does not believe that the United States will so interfere, and she will maintain her position until the demonstration of such forcible intervention is made. Peru ought not to be allowed to delude hereself with such an expectation if it is not to be realized.

As I have said, General Montero recognized the necessity for peace, and while he was not prepared to accept either the terms of the protocol or the modifications indicated in dispatch No. 19, he was prepared to make an earnest and serious effort for peace upon the preliminary conditions—

1. That the Chilian Government should recognize him as the lawful executive representative of the existing provisional government of Peru. This he undoubtedly is. All parties and factions in Peru have agreed to recognize and obey his authority, and I cannot see how the Chilian Government can expect him to make peace until it is willing to recognize his authority to do so; which can only be derived from his official position as the executive of an actual government.

2. If so recognized, he is a constitutional ruler, although a provisional one, and can only act within the limits of his constitutional authority. A treaty signed by him without the consent of the National Congress would be simply worthless, and he cannot, as an honest and honorable

man, pledge himself in advance to any treaty. General Montero therefore asks that the Chilian Government will grant such an armistice as will enable him to call his Congress together at Arequipa, the only place where it can be conveniently called. I am so sure that you will consider these requests reasonable that I have urged their concession upon the Chilian Government, and you will find in inclosure No. 4 my letter to the Chilian secretary for foreign affairs.

I addressed him this letter because I had this morning a long interview with General Lynch, the military commander, and Señor Novoa, the representative of the civil authority of Chili here. Señor Novoa, who informs me that he is authorized to conduct the negotiation for peace, was not prepared to act upon my representations, and, as he felt bound to refer the question to his government, I addressed the secretary for foreign affairs directly.

What the terms of peace should be I will not now attempt to discuss. I suppose my views would not be entirely acceptable to either party. But I do think that the requests of General Montero are reasonable, and that their refusal affords a fair ground for protest on the part of the independent powers who desire to see peace restored.

My letter, however, to the Chilian secretary for foreign affairs expresses my views so fully as to render their repetition here unnecessary.

If these requests are granted, I think an earnest negotation may be expected, with some assurance of a practical result. In that case I deem it of the utmost importance that I be allowed to come home and lay before you the results of my observation here, which I can scarcely do with sufficient fullness in a dispatch. You will then be enabled, I trust, to give definite instructions to the excellent, experienced, and able ministers who have been recently appointed to supply the vacant missions in Chili and Peru.

I have, &c.,

WM. HENRY TRESCOT.

[Inclosure No. 1 in No. 24.]

SPEECH OF MR. TRESCOT TO PRESIDENT MONTERO.

Mr. PRESIDENT: I have the honor to present to your excellency my credentials as special envoy extraordinary and minister plenipotentiary from the President of the United States to your Goverument.

I need not assure your excellency of the sympathy felt by the United States in the efforts made by the provisional government of Peru to establish order and to obtain peace. The prompt recognition of Señor Calderon, the continued recognition of the government, after it had been deprived of the eminent and patriotic services of that distinguished citizen, and the earnest and persistent efforts made by my government to find a basis upon which its intervention, in a spirit of equal friendship and respect for all the belligerents, could contribute to effect a secure and honorable peace, are proofs sufficient.

It would be manifestly unbecoming in me to discuss the causes which have so far obstructed the success of this endeavor. But I have felt it my duty to wait upon your excellency, not without the hope that means may yet be found by which, with mutual and honorable concession, negotiations may be initiated, which will reconcile the interests of all the belligerents and restore the peace so much desired.

[Inclosure No. 2 in No. 24.]

PRESIDENT MONTERO'S REPLY.

Mr. MINISTER: I receive with the greatest satisfaction the credentials of the envoy of the great republic, called upon, on account of its progressive ideas and unlimited prosperity, to exercise its beneficial influence in the moral order of the continent.

The sympathy of the United States towards the provisional government has not only been demonstrated by the great proofs that you have just shown, but by visible results. Your predecessor, General Hurlbut, whose memory will be preserved in Peru with eternal gratitude on account of his opportune mission near the provisional government of Señor Garcia Calderon, and on account of having strengthened the constitutional government in our country, caused that sympathy to produce unspeakable good at the time.

My government highly esteems the recognition of it, and welcomes with the most profound esteem the mission that you have come to fulfill at this time.

The basis upon which the efforts of your government wishes to make peace is easy to be understood in justice and in the interest of the entire continent.

It appears that some countries have considered the question of the Pacific as one of simply a private interest between three belligerent republics. The Government of Chili expressed to the neutral powers in its war circular against Peru, that it would not be reasonable to suppose that the government of Santiago would attempt to modify the geographical limits of the neighboring nations. That statement caused the war on the Pacific to be looked upon in that light; but afterwards that government changed, after having solemnly averred it, and therefore the face of the question was completely changed.

The pretensions of Chili, palpable before the war, and exposed after its victories, have transformed the apparent question of private interests among three republics into a question of continental interest.

To-day the question is whether a State that declares war to settle disputes which are susceptible of a peaceable solution can, as a consequence of its victories and of the sacrifices that it had no necessity to make, exact not only complete success, but the acquisition of territory and riches to which it never pretended to have a right.

The question is one of conquest; a continental and American question.

In your great nation and the others of this continent, you have to consider if by Chilian preponderance on the Pacific, by means of the appropriation of foreign territories and the boundless wealth they contain, the door would be left open for other encroachments by force of arms and for national changes in consequence of conquest.

Peru has to look forward, as likewise all America, to the influence and the results that these transformations would bring about in the relations between the old and the new continent. Finally, Peru has to struggle for the triumph of principle.

Every epoch has its moral progress and some prevailing idea for the good of humanity; Chili has not been capable, with the fortune of its arms, of combating in this war for the triumph of a beneficent idea, but only for usurpation. Peru is capable, in the midst of its misfortunes, of sacrificing its present in order to contribute by determined resistance, toward securing the future of America, and will not abandon that course without disappearing as an independent nation.

The solidity of interests and the nature of the social and political basis upon which the existence of the American states depend, in their internal order and in their external relations, permit us to hope that the generous exertions of the great republic of this continent, in favor of the re-establishment of peace upon honorable and equitable conditions, have not been concluded, since reasons of justice, political morality, and legitimate influence, which initiated them with such a laudable purpose and which is sanctioned by the history and the traditional policy of your government, still exist.

Peru desires peace and is ready to make any concession that will not wound its honor, its rights, and interests, or the rights, honor, and interests of the allies.

Your noble mission will contribute, I hope, to avoid the dismemberment, and with it the destruction, of the ancient nationalities of America.

The eminent qualities which adorn and make you personally so estimable are a guarantee for the happy success of these ideas.

[Inclosure No. 3 in No. 24]

Señor Alvarez to Mr. Trescot.

MINISTER OF FOREIGN AFFAIRS FOR PERU,
Huaraz, April 26, 1882.

SIR! The mission which your excellency has come to fulfill near the Government of Peru is another proof of the repeated efforts of your excellency's government to bring about peace between the belligerent republics on the Pacific; but up to now these efforts have only met with two impediments, which cannot be considered insuperable to a peaceful mind. The first is found in conditions which Chili proposes to impose—conditions which I need not define with particularity, since the government of your

excellency has viewed them as inacceptable as a starting point in its good offices. The second is the resistance that Chili makes to all previous discussion. The purpose is clearly not to allow a discussion, and this determination, which is not reasonable, nor according to the usual practice of modern nations, shuts the door to every way to an arrangement.

Peru wishes peace and is ready to make for that purpose, in concert with its ally, the Republic of Bolivia, any sacrifice that will not compromise the future which both have had the right to expect since they entered the list of independent republics. But it is impossible to know either the nature of these sacrifices or how far they may go without a reasonable debate that would carry conviction to the mind. It is not impossible, on the other hand, that Chili itself may become persuaded of the convenience and necessity of modifying its pretension to some acceptable terms, and it would appear incompatible with the rules of human prudence for Chili itself to place, with unnecessary persistence, obstacles in the path of its own interests.

The inconveniences that appear to have been alleged by Chili at one time against entering into conferences with Bolivia and Peru were on account of the internal dissensions of the latter; but your excellency is a witness that they do not exist and that there is only one government recognized without exception from one end of the country to the other; that this government is the emanation of a constitutional congress, and that all factions have yielded to its authority.

It would not be possible to explain in truth how a government recognized by the government of your excellency, before which your excellency is discharging your mission, and which is the only one in the country, should not be considered by the Government of Chili as the Government of Peru with which to discuss the points of an arrangement. The Government of Chili can do no less than abandon this idea, because by the force of things it has to come to an understanding with some political entity that may represent Peru, and this cannot be any other than the legal government recognized by all the nation.

In such a case, the provisional government being a constitutional government and being bound by a treaty to the constitutional government of Bolivia, it should proceed with its approval in all its resolutions. Therefore the road to peace might be shortened and facilitated if both governments could get together, and Peru arrange the best means of assembling Congress, without whose approval any arrangement is impossible.

As your excellency's mission is one of peace, I deem it proper to make you the present suggestions, that tend to level the first difficulties which come in the way, and thus to show the sincere wish that my government entertains of reaching it.

With sentiments, &c.,

M. ALVAREZ.

[Inclosure No. 4 in No. 24.]

Mr. Trescot to Señor Aldunate.

SPECIAL MISSION OF THE UNITED STATES IN SOUTH AMERICA,
Lima, Peru, May 3, 1882.

SIR: You are aware that in my last confidential conversation with your predecessor, Señor Balmaceda, it was understood that if the opportunity offered, I was authorized to indicate to the provisional government of Peru certain possible modifications in the terms of peace stated in the protocol.

I have presented my credentials to General Montero as Vice-President of the provisional constitutional government of Peru and have had several conferences with Señor Alvarez, his secretary of state for foreign affairs.

I found General Montero and his advisers fully aware of the importance of peace to Peru and not disposed to conceal from themselves or the country that at the end of an honorable, patriotic, but unsuccessful war, peace would have to be purchased at the cost of great sacrifices. He would have found himself unable to discuss the acceptance of the terms stated in the protocol. But if he was at liberty to assume that these terms were capable of modification, he would gladly, in concert with his ally, the Government of Bolivia, make every effort to reach such modification as would satisfy the just demands of Chili.

But you are aware that the President is only the executive officer of a government which is constitutional while it is provisional. A treaty signed by him, without the authority of the National Congress, especially if it should provide for the cession of territory, would be simply worthless.

It would seem therefore only reasonable that before the President makes any overtures looking to peace, he should have an assurance from the Chilian Government on two points:

1. That he will be recognized by the Chilian Government as the lawful executive representative of the provisional constitutional government of Peru.

I think it cannot be denied that at the present moment the government of General Montero, however reduced his forces or restricted his resources, does represent the existing nationality of Peru, and is recognized and obeyed by the Peruvian people.

2. In order to initiate the negotiations which it is hoped may lead to a secure and honorable peace, the President would have to receive the authority of the National Congress to make the necessary concessions. Is the Government of Chili willing to agree to such an armistice as would allow the President to summon Congress to meet him at Arequipa, the only place at which it could be conveniently assembled? If so, the President is prepared immediately to call Congress together to lay before them the condition of the country, the necessity for peace, and the terms upon which it may probably be obtained. I venture to express the earnest hope that you will find an acceptance of these preliminary conditions consistent with the rights and interests of your government.

It is needless for me to recall to you the fact that General Montero holds his office by virtue of the authority of Congress, which gave him power to make peace, but which forbade his doing so on the basis of cession of territory. It is therefore impossible for General Montero to make any promises implying territorial cession in advance. Such promises would have no official weight whatsoever; nor do I think that with due regard to his honor you could ask him to make assurances of such a nature. But I am of opinion that as all parties in Peru have recognized him as the constitutional head of the government, and as Chili has never denied the national existence of Peru, he may rightfully ask, when expressing, as he does, a sincere desire for peace, that his path may be thus far facilitated by your government, and recent instructions received from my government warrant me in expressing to you the earnest desire and hope of the United States that Chili may be able to agree to the request made by General Montero.

At present it seems to me that the anomalous conditions of the relations between Chili and Peru are the real obstacles to a satisfactory peace. Until Chili recognizes the existence of a lawful and responsible government in Peru, there is no authority with which to deal, and a peace—if such a solution can properly be called a peace—can be reached only by the imposition by force of such terms as Chili may dictate.

Nor can I perceive that these concessions would in the slightest degree weaken the present position of the Chilian Government. The terms upon which the armistice would be granted could provide that there should be no change in the military condition, either by increase of the Peruvian forces or the acquisition of supplies, while the full responsibility of accepting or rejecting the terms of peace would be placed where they must finally rest before any peace can be made secure upon the Peruvian people.

In making these suggestions you will understand that I am acting upon my last conversation with Señor Balmaceda, rather as a friendly mediator than in my official character as the special envoy to the belligerents. The views of General Montero, as I have expressed them, have been transmitted to my government.

I have furnished a copy of this letter to Señor Novoa, and I beg to request that, as it is most important for my government to be informed of the intentions of Chili, you will send an answer to Señor Novoa by cable as soon as possible.

I avail, &c.,

WM. HENRY TRESCOT.

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Mr. Trescot to Mr. Frelinghuysen.

No. 25.] SPECIAL MISSION OF THE UNITED STATES IN SOUTH AMERICA,

Lima, Peru, May 9, 1882. (Received June 2.)

SIR: I beg to forward herewith dispatches from Mr. Walker Blaine to myself, referring to his recent visit to Bolivia.

I have, &c.,

WM. HENRY TRESCOT.

[Inclosure in No. 25.]

Mr. Walker Blaine to Mr. Trescot.

No. 4.] SPECIAL MISSION OF THE UNITED STATES IN SOUTH AMERICA,
Lima, Peru, May 8, 1882.

SIR: Referring to the subject of my dispatch numbered one, and dated Arequipa, March 28, 1882, which is hereunto attached, marked inclosure No. 1, I have the honor to further report that on Wednesday, March 29, 1882, I left Arequipa for La Paz, Bolivia, arriving at the latter place at noon of Friday, March 31. In the afternoon of that day I had the pleasure of receiving visits from Señor Zilveti, Bolivian minister of foreign affairs, and from Señor Del Valle, envoy extraordinary and minister plenipotentiary from Peru to Bolivia. These visits were purely of a personal nature, and our conversation was of the most general character.

On Saturday morning, April 1, I was, however, received officially by Señor Zilveti, and, in company with the gentleman who accompanied me to La Paz, presented to Señor Salinas, the vice-president of Bolivia, and to the ministers of the government, the President of the country, General Campero, being then with the army (consisting of some five thousand men) at Oruro. The conversation between Señor Zilveti and myself, which followed this presentation, is, with one or two noted exceptions, summarized with sufficient accuracy in the memorandum of Señor Zilveti, which was forwarded to you through Mr. Adams, of which a copy and translation are herewith inclosed (marked inclosures 2 and 3).

I had, also, during the evenings of March 31 and April 1, two long interviews with Señor Del Valle, the minister from Peru to Bolivia. Our conversation was unreserved and confidential; the principal incident worthy of comment was that Señor Del Valle showed me a memorandum, signed on the 11th of February last by Señor Zilveti and himself, the effect of which is to strengthen the alliance now subsisting between Peru and Bolivia, and by which the two parties agree to act in entire harmony and concert in all negotiations and efforts for peace with Chili. This agreement was shown to me in such confidence that I beg to earnestly request that knowledge on our part of its existence may be kept secret.

Señor Del Valle further stated to me that he feared that his government would not regard with favor the proposition to exchange a portion of its littoral for an interior province of Bolivia, an arrangement which had been suggested by Señor Carrillo, in our conversation at Arequipa. (See my dispatch, inclosure No 1.) The acquisition of such territory would, in his opinion, add nothing to the revenues of Peru; its care and government would be, in fact, only a source of expense, while the port upon the Pacific which Bolivia would obtain by the exchange is a source of large revenue to Peru. It was, however, thought Señor Del Valle, possible for an arrangement to be made by which the effective neutrality of some selected port of Peru—for example, Arica or Mollendo—could be guaranteed to Bolivia, and all the imports and exports of that country admitted and dispatched free of duty. In expressing these opinions Señor Del Valle spoke in a personal capacity, as he had no instructions from his government, nor was he informed as to its views. In the opinions expressed by Señor Carrillo, and reaffirmed by Señor Zilveti, the suggestion is made that Bolivia will cede her littoral to Chili only as in lieu of an indemnity, and that it shall be clearly expressed in the treaty of peace that acquisition of territory as the rightful result of conquest in war is not in any way recognized, but is, on the contrary, expressly disavowed. Señor Del Valle, who was informed of these views of the Government of Bolivia, stated to me that they would doubtless coincide with those of his own government, but he was unable to see how, in accordance with these ideas, Peru could justly surrender Tarapaca. Bolivia yields Atacama only because she finds hereself unable to pay a war indemnity, the amount of which is to be specified in the definitive treaty, and which she admits that, as a vanquished nation, she ought to pay. But how can Peru be called upon to cede territory when she is willing and amply able to pay the most liberal indemnity to Chili? I make mention of these views merely for the purpose of pointing out a stumbling-block, which would seem to obstruct united and harmonious effort on the part of Peru and Bolivia to make peace with Chili.

Leaving La Paz on the morning of Sunday, April 2, I arrived in Arequipa on the evening of Monday the 3d. That evening Señor Carillo, the Bolivian minister, called upon me, and again expressed his desire to proceed to Lima, requesting me to obtain from the Chilian authorities the necessary permission to do so. This, as you are aware, I did, upon returning to Lima, and on April 15 forwarded to him the passport which, at my request, Señor Novoa had obtained for him and for his secretary from Admiral Lynch, but so poor are the postal arrangements that, though Señor Carillo did not leave Arequipa until the 4th of May, my letter containing the passport and marked upon the envelope as from the special mission of the United States never reached him.

I returned to Mollendo on Tuesday, April 4, and sailing upon the U. S. S. Alaska

had the pleasure of rejoining you in Lima on Friday, the 7th. As Señor Carrillo has arrived in Lima, and as you have conferred with him upon the desires and expectations of his government, it is not necessary for me to elaborate views and present facts with which you are entirely familiar. I desire, however, to say—

First. That, so far as I can judge, my journey to La Paz and conference with the Bolivian minister of foreign affairs was opportune and productive of good results. A great deal of importance was apparently attached by the Bolivian Government to the protocol signed on the 11th of February last by yourself and Señor Balmaceda. The purport of this paper had been, according to what Señor Zilveti and Señor Carrillo stated to me, greatly misunderstood, and they expressed themselves as pleased with my explanation and with what they at once admitted to be the just and true meaning of the protocol. I am inclined to think that the sensitiveness, natural to a small country like Bolivia, accounted in large measure for the feeling of the government upon this subject. In all our diplomatic correspondence, in the comments of the press of the United States and of Europe, the war has been constantly spoken of as one between Chili and Peru, and the implied slight had, in Bolivian public opinion, been aggravated by the fact that Bolivia was, in the protocol, referred to only in the most casual manner. This feeling was sensibly diminished by the fact that you had, on leaving Chili, at once sent me to La Paz, being unable at that time to make the journey in person, as I took care to explain to Señor Zilveti.

Second. While the war has, up to this time, not been carried on within the limits of Bolivia, and she has for this reason suffered, in comparison with her ally, but slight direct injury, yet it is of very great importance to the country that either a truce or peace should be made as speedily as possible. Business is at a stand-still; exports from the country, which were for a time entirely suspended, are now permitted by the Chilian authorities only upon payment of onerous duties, and imports are, I think, still, or at all events were very recently, absolutely prohibited. As the government depends for the larger portion of its revenues upon foreign commerce, and as, owing to the state of war, a larger army than usual is now being maintained, the taxation is necessarily increased, and this naturally tends to produce irritation; the danger of revolution (always great) is enhanced, and the continuance of orderly government imperiled. The war has, however, taught the Bolivians (if such a lesson can be learned in so short a time as has elapsed since the downfall of Daza, and if I am to believe the statements of Senor Zilveti) that constitutional and honest government is a possibility, and the men who are truly patriotic, and who desire a well-established state, profess themselves as being greatly encouraged by the present public feeling in Bolivia.

Third. Should it prove impossible to save her present littoral (the province of Atacama) to Bolivia, and I do not see how this can be done—and if, as Señor Del Valle and as other prominent Peruvians with whom I have conversed think, Peru is not willing to sell or exchange for other territory a portion of her sea-coast—if, in short, as the result of the war, Bolivia is to be altogether shut out from the Pacific, then the years of Bolivia's existence as an independent nation are few in number. It is true that Bolivia might find an outlet for a large part of her products, and perhaps an inlet for imports by the river Amazon and the Atlantic Ocean, but for this a large expenditure of money in the construction of railways and the deepening of rivers and the lapse of many years for the completion of the undertaking is necessary; even then her commerce in going to and from the ocean must pass through other countries, and those countries may see fit to impose vexatious duties, and impose other restrictions upon her trade, which would seriously hamper if not destroy it. Nor, supposing this untrue, are the financial resources or public credit of Bolivia equal to this undertaking; and it is more than probable that before its completion, surrounding states, covetous of her territory, would have secured her partition.

Moreover, the geographical position of Bolivia requires, in any event, an outlet upon the Pacific. I am aware that for many years her commerce has not sought ingress and egress by way of her own sea-coast. The ports of Mollendo and Arica have offered superior advantages, but Atacama has proved a valuable check upon Peru, and has prevented her from seriously overtaxing Bolivian imports and exports, fearful lest, should she do so, the country's trade would desert Mollendo and Arica and find refuge in Antofogasta and the other sea-ports of Bolivia. Compacts and agreements were made between the two countries, by which a certain portion of the revenues collected from Bolivian goods at Peruvian ports was to be paid to the former country. At the outbreak of the war, Peru owed Bolivia on this account more than four hundred thousand silver soles (Peruvian dollars). This fact serves to show how unsatisfactory in the past, and how probably unsatisfactory in the future, would be any commercial treaties giving to Bolivia only outlet and inlet through Peru.

Without considering the question as to whether it is best for the interests of the United States and of the world that the nationality of Bolivia should be preserved, I venture to express the opinion that the most feasible way by which, at the present time, her dismemberment can be avoided is by a strong and effective confederation between Peru and Bolivia, preserving to each an independent national existence, but

making such an identity of interest as shall render imperative the strict fulfillment of any obligations and treaties into which they may enter. It seems to me that the self-interest of those countries would tend to such an end. Peru fears gradual absorption of her territory by Chili; Bolivia fears her own dismemberment by and division among surrounding nations. Traditions and natural national jealousies would render impossible any close union; self-preservation and resultant benefit would strongly urge upon each the course which I have suggested. I am not unaware of the fact that the interest of Chili would lead her to strongly oppose such a confederation, but, as I have offered this merely in the nature of personal opinion, and as you are better informed than myself, and a better judge of the advantage and practicability of such a political step, I do not consider it necessary to discuss the subject further.

In conclusion, permit me to observe that I cannot but think it of the greatest importance, both to ourselves and to the belligerents, that the United States should, as speedily as practicable, decide what course it will take with regard to the war of the Pacific. It was most embarrassing not to be able to inform Señor Zilveti and Señor Carrillo of the views of my government, as I felt that the great interests of Bolivia now at stake entitled them to ask and to expect a speedy answer, and I think that, both for our own prestige and as a matter of justice, Bolivia should not be compelled to wait for longer time than is necessary for a definite decision on the part of the United States.

I further recommend that for the future our minister to Bolivia should be kept fully informed as to the policy of his government and of any action which may be taken by his colleagues at Lima and at Santiago. The unfortunately almost directly contradictory official communications made at one time by our ministers to Chili and Peru would have made the position of General Adams, in Bolivia, had he not fortunately been absent on leave, extremely embarrassing. Without full knowledge and concert of action on the part of our diplomatic representatives any final settlement by our government or any assistance in the solution of this question is rendered almost impossible.

I have the honor, &c.,

WALKER BLAINE.

[Inclosure 1 in No 4.]

Mr. Walker Blaine to Mr. Trescot.

No. 1.] SPECIAL MISSION OF THE UNITED STATES IN SOUTH AMERICA,
Arequipa, Peru, March 28, 1882.

SIR: I have the honor to inform you that we arrived in the harbor of Mollendo on Sunday, the 26th instant, between two and three o'clock in the afternoon. Mr. Cochran, the agent of the Mollendo and Puno Railway at that place, visited the ship shortly after our arrival, and most kindly placed the facilities of his road at our disposition. Learning that General Adams was at Arequipa, I telegraphed him to await me at that point, and, in accordance with arrangements made by Mr. Cochran, left Mollendo by special train at eight o'clock Monday morning, Captain Belknap and servant, Lieutenant Hale, and Dr. Whiting, of the United States steamer Alaska, accompanying Mr. Cuthbert Trescot and myself. Half way between Mollendo and Arequipa we were met by General Adams, who accompanied us to Arequipa, where we arrived about four o'clock in the afternoon. On arriving we were met by the adjutant of Señor Carrillo (now the representative in this section of the government of Vice-President Montero), who accompanied us to our hotel. This morning Señor Carrillo called upon us in person, and I have just come from returning his visit. We have been received with great courtesy and cordiality by all the officials of the government, and those connected with the railway have very kindly placed at our disposition all the facilities afforded by their line.

By appointment, I this morning met Señor Juan C. Carrillo and had a long conference with him. He was formerly minister of foreign affairs of Bolivia, and represented that country at the Arica conference. He is now accredited by Bolivia as minister near the Governments of Peru and Chili, and is thus far on his way to those countries. Señor Carrillo began by saying that he desired to speak with all frankness and confidence, in which I told him I would heartily concur. He then asked General Adams to read me a letter which he had on the twenty-fifth instant addressed to the general, a copy and translation of which you will find inclosed, marked inclosures 1 and 2. Having listened to the translation of the letter by General Adams, I replied in substance as follows:

"In order, Señor Carrillo, to make a satisfactory and full explanation of and answer to the question contained in your letter, I will begin by recalling to your mind that after the failure of the conference at Arica the United States still persisted in its effort to

bring about a peace between Peru, Bolivia, and Chili. As the instructions given to Mr. Trescot have been made public, I can refer to them without embarrassment. From them you will have learned that the government of Garcia Calderon was recognized in Peru by the United States, as the latter power understood that such recognition was desired by Chili and would tend toward the establishment of peace. After the said government had been so recognized by the United States, Chili, without explanation and without notification to the United States, arrested Garcia Calderon and carried him as prisoner to Chili. You will, I think, agree with me that this act, thus unexplained, and in view of the attendant circumstances stated in Mr. Trescot's instructions, might well seem like one of intentional insult to the United States. Mr. Trescot was, therefore, instructed to frankly state to Chili the view which the United States was forced to hold of this arrest, and to request of the Government of Chili an explanation. This lay at the threshold of Mr. Trescot's mission, and was the first point discussed in his interview with Señor Balmaceda. After this had been fully discussed, and Chili had made explanation (and I beg you, sir, to remark that this question was one wholly and only concerning Chili and my government), the conversation turned upon what terms Chili was disposed to offer to Peru as a basis of peace. The conclusions thus reached were afterward summarized in the protocol to which you have referred in your letter. And here I beg you to observe that a protocol of this nature does not differ from a written memorandum of conversation, not being in any sense, as you seem to have understood, a contract or binding agreement. It is not with us the custom to seal such memoranda, but Señor Balmaceda stated that it was the diplomatic usage in South America so to do, and Mr. Trescot assented to it, observing that the seal could add nothing to its force.

"It will perhaps, however, be more satisfactory to examine the protocol itself, which states:

"First. The question of Garcia Calderon, which is of interest only to the United States and Chili, is disposed of.

"Second. The question of armed intervention (in effect a declaration of war) is not within the province of diplomacy, and is, therefore, not contemplated by the mission of Mr. Trescot. I cannot but think that such a question is never within the purview of any diplomatic mission.

"Third. The United States will offer mediation (which is almost identical with arbitration) only when conducive to the good of all the belligerents, and when asked by all. Chili states that she does not desire it, and therefore the United States does not offer it.

"Fourth. Referring to the question of good offices Chili states that if the United States will offer them on the bases proposed by herself (Chili), all facilities at her command in Peru shall be extended to Mr. Trescot.

"Fifth. The terms on which Chili will make peace with Peru are stated.

"Finally, it is stated that Mr. Trescot thought it best to telegraph to his government as to whether the good offices should be offered on the conditions named, and awaits a reply, which reply forming part of the protocol and published at the same time, is stated in Mr. Trescot's letter to Señor Balmaceda. The effect of this reply, you will at once see, was to render the whole protocol blank paper, for in any event and on any supposition, but the first three articles can be regarded as in any way binding, and of these the first states simply a question which concerns the United States and Chili alone, and the second and third enunciate principles recognized in all international law. Mr. Trescot was, therefore, entirely correct when he wrote to Mr. Adams what I now state to you, that nothing had been signed which in any way bound the United States as to its action in this matter.

"Further, permit me to say that this will fully explain why Bolivia is not mentioned in the protocol, for it is evident that if the United States could not offer its good offices to bring about peace with Peru on the bases proposed by Chili, there was no need of discussing the Bolivian question. If the offer of Chili with regard to Peru was accepted, then the Bolivian question would naturally come up next in order for discussion.

"One matter further: The United States has replied to Mr. Trescot's telegram, stating that she cannot offer good offices or take any part in bringing about a peace based upon both money indemnification and a cession of territory, and that the question as to the future action of the United States has been referred to Congress, and while awaiting the decision of that body it has seemed good to Mr. Trescot to himself go to Peru and to send me to Bolivia, in order to ascertain the intentions and desires of those governments with regard to peace.

"I ought perhaps to add that it was not intended that the protocol referred to should be made public, but, the essential portions having been published in the United States by some mistake (as they were communicated in a confidential dispatch), Mr. Trescot did not consider that he could refuse permission to Señor Balmaceda to publish the entire document."

Señor Carrillo thereupon replied that he was pleased to hear my explanation, and that

he would state to me with frankness and in confidence what were the views of his government and people. He said that they had been led to believe from the declarations of Mr. Hurlbut in Peru (for during the time Mr. Adams was absent from Bolivia) that the United States would not, in any event, permit peace upon the basis of annexation of territory, and that Bolivia had patiently awaited the result of the influence of the United States, not expecting a forcible intervention, but led to believe that our government would lend its moral influence, as it had done with so much effect in the case of Mexico; that after his return to Bolivia, in the early part of January last, Mr. Adams had informed the government of the mission of Mr. Trescot, and had requested, to which the government had cheerfully acceded, that pending the result of your negotiations in Santiago things might remain *in statu quo;* that just about this time Señor Baptista had been sent as delegate from Bolivia to the proposed congress in Central America, and that secret instructions had been given him to converse, while on his journey, with any men of prominence with whom he might meet in Chili or Peru, that he might inform the Government of Bolivia as to the views of these countries with regard to peace; that at Tacna, Señor Baptista had met Señor Lillo, who, on behalf of Chili, had proposed that peace should be made between his government and Bolivia, to which Señor Baptista replied that his government would not make peace, save after consultation with and with the approval of Peru, and had suggested, speaking for himself, that it seemed best to make a truce rather than a peace; that conferences had been held, and that certain conclusions, subject to the approval of his government, had been assented to by Señor Baptista, but that the Government of Bolivia would never have agreed to peace, even with the consent of Peru, and this independent of any suggestion or request on the part of Mr. Adams. He also gave me to understand that Chili had offered to cede Tacna, Arica, and Pisagua to Bolivia (all this territory being Peruvian), in exchange for Atacama. Further continuing, Señor Carrillo said that we could not regard it as strange, in view of the attitude of the United States, if Bolivia felt that the time had arrived when it was wise for her to make the best terms possible for herself and by herself, supposing that the United States had finally withdrawn from the question.

I replied that I did not understand that the United States had as yet definitely decided its future policy, and requested him to state to me the intentions of Bolivia.

In answer, he said that he would state them frankly, but begged that his views might be regarded as personal and confidential. He said that, first, it might be advantageous to consider that the same results could be brought about, without offending either Peru or Bolivia, by a careful use of language. For example, Bolivia could cede territory to Chili, provided it was regarded as in lieu of a money indemnity, and not as a right of conquest; for to affirm the latter proposition to be a recognized principle would, in effect, place the territory of Bolivia at the mercy of any nation stronger than herself, rather than do which she would prefer the immediate termination of a national existence. I replied that I thought that I could safely affirm that my government would never take part in any negotiation for peace which recognized cession of territory, without any other consideration, as the legitimate result of victory in war. He then added that it was absolutely essential to Bolivia to have a free and independent outlet and inlet upon the Pacific, the reasons for which he detailed, but which it is not necessary for me now to repeat. With these considerations as premises, he thought his government would make peace on the following conditions:

1st. Recognizing indemnification as the right of the victor in war.

2d. The indemnity due from Bolivia to Chili shall be fixed at a definite sum, and in default of payment, Chili shall be allowed to take Atacama; the fact shall also be recognized that, as a result of the war, a new demarkation of boundaries between the three nations has become necessary, and that the natural affinity of Atacama to Chili, arising from population and proximity, may be regarded in settling the demarkation.

3d. Bolivia desires, for the purpose of procuring a port upon the Pacific, to make an independent treaty with Peru by which, in exchange for Tacna and Arica, she would give the province of Caupolican, bordering upon Lake Titicaca and contiguous to Peru, and possibly would assume a portion of her debt or pay an additional compensation in money, the details to be hereafter arranged between the two countries.

Reverting to previous conversation, Señor Carrillo then inquired as to what I thought would be the attitude of my government upon the question.

I told him that I could not form an opinion; that it was within the bounds of possibility that Congress, to which body I understood that the question had been referred, might decide to withdraw altogether, or to intervene with effect; that I had no information or intimation on which to predicate an opinion; that, possibly, so indefinite a reply might be somewhat embarrassing to his government, but that a definite decision would, in all probability, be reached by the United States in a short time, and that it did not seem to me that a maintenance of affairs *in statu quo* for a limited period could seriously hamper or prove detrimental to Bolivia.

In this he concurred and informed me that he was accredited both to Chili and Peru, and, for the purpose of conferring with you and with the Government of Peru, would

gladly at once proceed to Lima, but was prevented from doing so for certain reasons. (See my dispatch numbered 2.) He also said that he was empowered by his government, on the understanding that the United States had entirely withdrawn from the question, to request the aid of the Argentine Republic, Brazil, or any other American power, and failing in this to request the intervention of Europe, and inquired of me what opinion my government would entertain of the latter course.

I replied that the traditional policy of the United States had ever viewed with disfavor European intervention upon this hemisphere, and that unless this policy had been radically overturned (of which I was not informed), it could not but view such a step with disfavor. This was the substance of our conversation.

I inquired of Señor Carrillo as to whether I was at liberty to refer to it in the conference which I hope to have in La Paz with Señor Zilveti, Bolivian minister of foreign affairs, to which he replied that, though he did not doubt that I would find Señor Zilveti's opinions to be identical, he preferred that the latter should express them voluntarily and spontaneously. I therefore take advantage of the mail, which I am informed leaves to-morrow for Callao, to send this for your guidance and information, and will report further after my return from La Paz.

I have concluded to go thither, and shall leave for Puno at six o'clock to-morrow morning. I have made arrangements which will, I trust, bring me to Mollendo on Monday or Tuesday next, and shall join you in Lima as quickly as possible. It seems to me to be more respectful to proceed to the Bolivian capital, and I cannot but think it extremely doubtful as to whether you will personally be able to go there.

There are some incidental questions as to the effect of the Balmaceda protocol in Bolivia and other matters touched upon in our conversation, to which I do not now deem it necessary to refer, but which I will hereafter explain to you, either orally or in writing.

I have written hastily, but I trust I have made myself intelligible, and that what I said and its results may meet with your approval.

I am, &c.,

WALKER BLAINE.

[Inclosure 2 in No. 1.—Translation.]

Señor Carrillo to Mr. Adams.

LEGATION OF BOLIVIA,
Arequipa, March 25, 1882.

SIR: The undersigned, envoy extraordinary and minister plenipotentiary of Bolivia accredited near the Government of Peru, is informed of the early arrival of Mr. Walker Blaine at the port of Mollendo, charged with a special mission from the United States, in order to have an interview with your excellency, and, as the distance prevents the Government of Bolivia from taking advantage of this opportunity to obtain some data necessary to the development of its policy, the undersigned takes the liberty of asking your excellency to please to make clear in the said interview the points contained in this letter.

In the protocol of the 11th of February last, signed by the Chilian minister of foreign affairs and his excellency Mr. W. H. Trescot, special envoy extraordinary and minister plenipotentiary of the United States of America, it is stated that "the mediation (of the United States) does not conform to the convenience of the belligerents, nor is it solicited by Chili," and it is added that, eliminating from all discussion the possibility of armed intervention, the United States "will offer its mediation only in case that the belligerents shall manifest a desire of obtaining it, and when its acceptance will conduce to results satisfactory to both." At the same time it is declared, in the third clause, that the *mediation of the United States is a point eliminated from all discussion and definitely concluded.*

Notwithstanding that the allied governments have shown by their official acts a respectful deference to the conciliatory policy of the United States, confiding in its efficacious influence for the restoration of peace, the declaration just recited leads one to consider that the new action upon which the government of your excellency entered, after the conference at Arica, in the present international conflict upon the Pacific, is definitely ended and withdrawn.

This consideration and the fact that no mention is made of the republic of Bolivia in the conference at Santiago, nor in the agreement signed at Viña del Mar, notwithstanding that, in consequence of the declarations made by your excellency in your respectful note of the 10th of January last, addressed to the Bolivian cabinet, all action was suspended until the result of the missionof Mr. Trescot should be made known, have determined the undersigned to interest your excellency in order that, in your approaching interview with Mr. Blaine, the reasons may, so far as possible, be made clear why Bolivia was not mentioned in the matters already referred to, and at the same

time a declaration may be obtained as to the true meaning and extent of the conclusions of the aforesaid protocol relative to the mediation of the Government of the United States with regard to the three belligerent nations. The undersigned does not doubt that your excellency will entertain the present suggestion, as it will show the Government of Bolivia another proof of that delicate attention which your excellency has shown in the discharge of the duties of your high office.

With every consideration, &c.,

JUAN C. CARRILLO.

[Inclosure 3 in No. 4.—Translation of inclosure 2.]

(Private copy.)

MINISTER OF FOREIGN AFFAIRS OF BOLIVIA.

In the city of La Paz, on the 1st of April, 1882, in accordance with an agreement made the previous day, Mr. Walker Blaine with General Adams, minister resident of the United States, met Doctor Pedro José Zilveti, in the office of the minister of foreign affairs for Bolivia. The minister commenced by asking Mr. Blaine what character they would give to the interview, to which he replied that he had instructions from the plenipotentiary, Mr. Trescot, to ascertain the opinions and intentions of the Government of Bolivia, and that the conference would, therefore, be entirely confidential.

Señor Zilveti having signified his wish to know the extent and importance of the protocol of February 11th, signed by Messrs. Trescot and Balmaceda, Mr. Blaine made the same statements that he did, in reference to this matter, in his interview of March 28th with Señor Carrillo, stating, therefore, as a conclusion, that there was entire freedom of action for American diplomacy, in conformity with the friendly character of its relations towards the three belligerent nations. Señor Zilveti was permitted to ask Mr. Blaine what position the United States would take if Chili persisted in demanding the conditions of peace set forth in the protocol of the 11th of February, which on the part of Bolivia are absolutely inadmissible. The reply was as follows: the government of the United States sincerely desires the cessation of the actual war, but does not find itself in a position to itself assume a warlike attitude because it does not desrie to make war, nor do the American people desire it; that for this reason, if the indicated conditions were not modified and the demand of cession of territory were maintained by Chili as the right of a conqueror and as a condition, *sine qua non*, of a settlement, the Government of the United States could do nothing more than to retire completely. (See foot note.) Señor Zilveti replied that he did not think that the point could be reached. That the United States would have to declare war against Chili, because one determined word from the former government would suffice to bring the conqueror to reason and make him consent to an equitable and satisfactory arrangement. He called attention, besides, to the fact that the retirement of the United States in such a case would make worse the condition of the allies and make another victory for Chili.

Señor Zilveti, being asked upon what base Bolivia would enter into an arrangement for the cessation of the present war which causes so much injury to the belligerents, replied, that, according to the conditions imposed by Chili, it would amount to a perpetual closing in of Bolivia, its deprivation of every outlet upon the Pacific, and its consequent death; that Bolivia could accept no such arrangement, preferring to indefinitely maintain a defensive attitude; but that, in his opinion, a preliminary arrangement for peace might be made, recognizing the right to a just indemnity, the mode and payment of which would be matter for a future international contract, the express declaration being made that the right of conquest was not recognized, and that this must be done without impairing the loyalty which Bolivia owes Peru, in accordance with their treaty of alliance.

Referring to the case of an absolute impossibility of arriving at any definite agreement, and of the wisdom of stipulating for an armistice or temporary truce, Mr. Blaine asked on what conditions Bolivia would accept it. Señor Zilveti replied that he could not say with certainty what these conditions would be, but, as his own private opinion, he might say that, in the event of treating for a truce jointly with Peru, the war occupation should be limited to the department of Tarapacá and the littoral of Bolivia, a neutral zone should be determined, liberty and necessary guarantees given that Peru may be organized in a stable manner, and liberty of commerce accorded to Bolivia, through its own and Peruvian ports, in accordance with the existing treaties between the two nations. Señor Zilveti having asked if it was true that Mr. Trescot, in his special mission, expected new instructions from his government, and if they would be soon communicated, Mr. Blaine replied that they were actually expected, but that they could not be given until after the Congress of the United States, to which the question had been submitted for its consideration, should have passed upon it, and that he thought it improbable that this would be done immediately, since to obtain more ex-

act information Mr. Hurlbut had been summoned home, and was to leave Lima on the 6th of April.

Referring to the mission of Señor Carrillo, with whom Mr. Blaine had conversed in Arequipa, Señor Zilveti stated that if Chili sincerely wished to enter into an arrangement leading to a solution of the present conflict, she would give Señor Carrillo a passport and the necessary guarantees that he might put himself in communication with the Government of Peru, to which he has been accredited. Mr. Blaine said that he thought so, too, and had, on his part, addressed Mr. Trescot from Arequipa, recommending him to obtain from the Chilian authorities all the guarantees wished for, that Señor Carrillo might proceed to the fulfillment of his mission.

Here the confidential interview, of which this is a brief summary, ended.

Approved.

JENARO SANJINES,
Chief Clerk of Foreign Affairs.

NOTE.—The statement made by me was that, in the present complicated condition of affairs, Chili would not yield her claim to the cession of Tarapacà, unless compelled to do so by a manifestation on the part of the United States of a purpose to force her to that determination; that neither the people nor the Government of the United States had ever contemplated the possibility of assuming a warlike attitude.

W. BLAINE.

No. 62.

Mr. Trescot to Mr. Frelinghuysen.

No. 26.] SPECIAL MISSION OF THE UNITED STATES IN SOUTH AMERICA,
Washington, D. C., June 5, 1882.

SIR: In dispatch No. 24, dated Lima, May 3, 1882, I inclosed an account of my interviews with Señor Alvarez, the Peruvian Secretary for Foreign Affairs, and the letter which in consequence I addressed to the Chilian Government.

The purpose of that letter was to urge upon the Chilian Government the acceptance of the preliminary conditions which the Peruvian Government thought necessary to the initiation of a serious negotiation for peace.

The conditions were:

1. That General Montero should be recognized as the executive head of an actual government.

2. That, under the provisions of a short truce, he should be afforded the opportunity to convene the National Congress at Arequipa, in order that he might receive from it the authority necessary for the conclusion of a peace.

My reasons for the representation made to the Chilian Government in this connection have been so fully stated in my dispatch to the Department, and in the communication to the Chilian Government, that they need not now be repeated.

It only remains for me to state what consideration has so far been given to the proposed conditions.

For reasons which have been stated in former dispatches, I was obliged to leave Lima before my communication in its formal shape could reach the Chilian Government at Santiago. But that government has in Lima a diplomatic representative in the person of Señor Novoa, who is authorized to consider any propositions tending to a negotiation for peace.

The whole subject was fully discussed with him and General Lynch, the military commander of the Chilian army of occupation, and the prop-

ositions, with the substance of the conference, were telegraphed by Señor Novoa to his government.

I do not regard the telegraphic reply which was communicated by Señor Novoa as conclusive. My dispatches had not yet reached the Chilian Government, and I think it clear that the bare statement of the propositions had not put the Chilian Government in full possession of the considerations which recommended their adoption. I have other reasons for believing that the question is still an open one.

The reply of the Government of Chili, as communicated by Señor Novoa, intimated:

1. That as no active military operations were being conducted by the Chilian army, there was no apparent necessity for a truce. But it is obvious that, as Arequipa is open at any moment to occupation by the Chilian troops from Mollendo, the Peruvian Congress would naturally and properly require some guarantee that its deliberations should be free and uninterrupted. A repetition of the dissolution of Congress because its deliberations were not agreeable to the Chilian Government is a contingency which the Congress, in view of the past, could scarcely disregard, and which would make any effort at negotiation only another unfortunate failure. Beside which, if there are, and are to be, no active military operations, there can be no possible danger or inconvenience to Chili in giving such a condition of things the sanction of a formal agreement by a short notice.

2. While the Chilian Government desired peace, it was unwilling to enter upon negotiation without distinct agreement in advance of the terms which must be accepted. It was dissatisfied with the experience of its former attempts at negotiation with the Calderon government and was indisposed to renew the effort without the certainty of a successful result. It was willing, therefore, to negotiate informally with General Montero, and upon the signature of satisfactory preliminaries would recognize the existence of the Peruvian Government, *pari passu*, with the execution of the treaty.

But the Congress which had authorized General Montero to negotiate had expressly forbidden any cesson of territory, and it was, therefore, simply impossible for General Montero to sign a treaty containing such provisions. After some discussion Señor Novoa expressed his willingness to accept a preliminary agreement by which General Montero would bind himself to submit for approval, to the National Congress, such a treaty as he and Señor Novoa could agree upon, and to recognize General Montero's government upon the execution of such an instrument. This would have afforded an opportunity for the opening of negotiations, but Señor Novoa added the limitation that if the Congress did not approve the treaty so submitted, the recognition would be withdrawn. This was simply an impossible condition. The recognition of the Montero government had to be positive. If Congress failed to approve, Chili could still prosecute the war until Peru was compelled to accept her terms, but such a contingent recognition was in fact only the old proposition of a treaty before recognition in another and much more illogical and embarrassing shape. Señor Novoa was willing to adopt another method. He would sign a treaty with General Montero to be submitted and approved by the municipalities; that is, by the local authorities of the separate provinces. Such a method was entirely beyond General Montero's constitutional powers, and would, I think, have led to the renewal of the differences between the various parties in Peru, who, accepting General Montero as the legitimate representative of the government, would acquiesce in the regular action of the Executive and Congress.

As Señor Novoa was either indisposed or unauthorized to move out of this vicious circle, our conferences terminated.

I regret this the more as I think the propositions offered a fair prospect of a serious negotiation. Chili cannot obtain a peace which will give sanction and title to her acquisition of territory without the recognition of a legitimate government in Peru. Without a treaty with such authority the acquisition will be simply one of force to be maintained as it has been acquired. The recognition of General Montero's government will place upon him, and upon the people of Peru, the responsibility of making or rejecting peace, while the calling of Congress will afford the opportunity to those who desire peace to do what they cannot do under present circumstances—organize a party which can exert its influence directly, effectively, and legitimately in the Congress itself.

But I cannot with justice conclude this dispatch without saying that I believe the reason which induces the hesitation of Chili is that she believes that, so long as the Peruvians are convinced that the United States will finally intervene, they never will negotiate in earnest.

It is unquestionably true that the Peruvian Government does believe that the United States will intervene; at any rate they consider that the question of intervention, as one of their leading officials expressed it to me, was still a pending question.

It is obvious that neither Chili nor Peru will approach the solution of their difficulties in the proper spirit, or with any hope of a result satisfactory to both, as long as this impression lasts.

If the United States intend to intervene effectively to prevent the disintegration of Peru, the time has come when that intention should be avowed. If it does not, still more urgent is the necessity that Chili and Peru should understand exactly where the action of the United States ends. It would be entirely beyond my duty to discuss the character or the consequences of either line of conduct, but I trust that you will not deem that I am going beyond that duty in impressing upon the government that the present position of the United States is an embarrassment to all the belligerents, and that it should be terminated as promptly as possible.

There is another conviction which it is clearly my duty to express. I believe that whenever the United States formally withdraws from further intervention, Peru will apply to the European powers, and that a joint intervention of two or more is probable. It is not for me to anticipate what view the Department will take of such a possibility.

I have, &c.,

WM. HENRY TRESCOT.

No. 63.

Mr. Trescot to Mr. Frelinghuysen.

No. 27.] SPECIAL MISSION OF THE UNITED STATES IN SOUTH AMERICA,
Washington, D. C., June 10, 1882.

SIR: I herewith inclose a copy of a communication just received from Señor Alvarez, secretary for foreign affairs of the Provisional Government of Peru, and have the honor to be your obedient servant,

WM. HENRY TRESCOT.

[Inclosure in No. 27.—Translation.]

Señor Alvarez to Mr. Trescot.

HUARAZ, *May* 10, 1882.

Mr. MINISTER: The representatives of your excellency's government in Peru, and those of the government of this country, have on various occasions informed your government of the cruelty and the acts of vandalism with which the Chilian forces carry on hostilities against our defenseless people. The recital of a portion of these acts of barbarity has now been published, being contained in the volume of official documents published by your excellency's government, in relation to the war on the Pacific coast. The Hon. Mr. Christiancy, in giving an account of these acts, refers to them with deep emotion. I will quote a few passages from his communications:

"Last week a Chilian force of from two to three thousand men marched from Ilo to Mollendo, and with some marines who were near, or who arrived there about that time, they completely burned, sacked, and destroyed the town, railway, and railway station, wantonly destroying the lives of peaceable inhabitants."

"The orders given by the Chilian Government to their fleet to destroy all the Peruvian ports can hardly be carried out without great inhumanity and even barbarity, and that towards neutrals." (March 23, 1880, page 325.)

Referring to other outrages, he says:

"This mode of carrying on the war by Chili has produced a strong feeling here among all the representatives of foreign powers.

"I shall readily join in protesting against all such means as are supported only by savage or semi-barbarous practices of past ages, but condemned by the more humane codes of modern warfare. Humanity has some rights even higher than those of belligerents." (March 24, 1880, page 327.)

"This is not war, but deliberate, wholesale murder, unprovoked by anything yet done by the allied forces, and, in the cause of civilization and humanity, calls for an indignant protest from all civilized nations." (July 5, 1880, page 330.)

"If Chili chooses to employ savages as soldiers she must be held responsible before the world for all such excesses as would not have been committed by a civilized soldiery under proper discipline." (February 2, 1881, page 438.)

Your excellency sees for yourself in the vicinity of Lima the traces of this barbarous warfare.

It now becomes my painful duty to call your excellency's attention to a fresh outrage of this kind, which has just been committed in the province of Jauja by the Chilian forces which are overrunning that territory.

The commander of those forces, whose name is E. del Canto, sent on the 6th of April last an artful communication to various towns in that province, telling them that the Chilian forces had not come for the purpose of making war upon the poor, but upon the rich, so as to compel them to sue for peace. (Inclosure No. 1.)

The object of this communistic proclamation was to induce the Indians to plunder the property of the wealthy classes in order that the Chilian forces might thus be supplied with beef cattle. To this wily missive intimidation was added, Mr. del Canto informing the Indians that he had caused their principal men in those districts to be placed under arrest.

Finding that his insinuations were of no avail, del Canto proceeded to commit an act of the most barbarous cruelty. He invaded those defenseless villages with a force of two thousand men and butchered the inhabitants, without sparing either age or sex. He drove those who escaped the murderous knife to the mountains, thus depriving them of shelter and of every means of subsistence. (Inclosure No. 2.)

The inclosed copies of reports received by the government will give your excellency a fuller view of these horrors. These copies are not authenticated, because the parties who sent them feared the evils to which they would have been subjected if the papers had been intercepted.

It seems scarcely credible, the war being *de facto* at an end, for the simple reason that Peru is unable to continue it, and in presence of your excellency's mission of peace, that such acts of atrocity are possible.

Your excellency will observe that this officer, del Canto, molds the policy of his government in the most inhuman manner.

The revelation of such cruel proceedings and of such wicked purposes will, I hope, be an additional incentive to your excellency's government to increase its laudable efforts to bring about a peace without usurpations on the part of Chili. It is not possible that your excellency's government should witness unmoved the execution of this horrible design: "Either the conquest of a portion of our territory or the butchery of its inhabitants." It cannot be that these atrocities are to go on year after year before the very eyes of the United States in spite of their denunciation by the Hon. Mr. Christiancy.

In the mean time I likewise hope that your excellency, with the sense of justice which characterizes you, will for the honor of humanity endeavor, so far as you are able, to put an end to these revolting deeds.

With sentiments of the most distinguished consideration, I am, &c.,

MO. ALVAREZ.

[Inclosure No. 1.]

No. 108.] HUANCAYO, *April* 6, 1882.

To the chief of the communities of Vinca, Moya, Cocra, Laran, and others on the heights of Chongos:

The Chilian forces have not come to make war upon or to oppress the poor. The sole object of their coming has been to compel the rich to sue for that peace which is so necessary in order that the poor may be able to pursue their labors without molestation.

In view of the fact that the Chilian forces have been living almost at the expense of the poor, and as the Government of Huancayo was badly disarranged the notables have been placed under arrest.

What is desired is that the rich should give what they ought; consequently, the chief of the communities on the other side is requested to send commissioners to the principal estates for the purpose of bringing beef cattle, so that those which have been taken from the poor may be restored to them, and that some may be left for the subsistence of the Chilian forces.

The chief of the communities is further requested to inform his people that they may retire to their villages with the certainty that the Chilian forces will do them no harm.

A reply is requested.

God guard you.

E. DEL CANTO.

CORRESPONDENCE WITH THE LEGATION OF CHILI AT WASHINGTON.

No. 64.

Mr. Martinez to Mr. Frelinghuysen.

LEGATION OF CHILI IN THE UNITED STATES,
Washington, December 28, 1881. (Received Dec. 31.)

SIR: The last steamer from Aspinwall brought the following authentic news:

Señor Lizardo Montero issued a proclamation at Cajamarca, on the 15th of November, stating that he assumes the Presidency of Peru and enforcing the continuance of the state of active war against Chili. According to that proclamation, the capital of the republic was to be the inland town of Cajamarca.

Meanwhile Señor Andres A. Cáceres, the chieftain of the guerrilla bands stationed at Chosica, was proclaimed President by his troops. He also issued a proclamation, under the date of the 24th of November, in which he acknowledges the country to be in a state of anarchy; resigns, for the present, the Presidency, till the people may freely elect a President; and retains, meanwhile, the political and military government of the central provinces.

Señor Cáceres says also that the state of war is vigorously maintained, and that he hopes the Peruvians will at last vanquish their foe. Señor Cáceres does not declare whom he judges to be chief of the nation, but he confines himself to disowning the authority of Piérola.

As to the rest, the old personal political parties of the country are entirely disorganized, disrupted, and in a state of anarchy. I think it to be highly important for your excellency to be acquainted with these facts that may lead you to fully appreciate the condition of affairs in South America.

Please accept, sir, &c.,

M. MARTINEZ.

No. 65.

Mr. Frelinghuysen to Mr. Martinez.

DEPARTMENT OF STATE,
Washington, January 7, 1882.

SIR: I have the honor to acknowledge the receipt of your note of the 28th ultimo, giving me your views as to the present condition of Peru, derived from your latest intelligence. I need not inform you that it has been read with the most lively interest.

I was much gratified yesterday with the assurances which you gave me, in our personal interview, that your government, in the arrest and imprisonment of Calderon, was in no way instigated by an unfriendly feeling towards the United States. If you feel yourself at liberty to renew that assurance in writing I shall be still further and greatly gratified by your doing so. Such a communication, written in the friendly spirit which marked your verbal communications, will tend to promote that friendly feeling which is so desirable among American republics.

Accept, sir, &c.,

FRED'K T. FRELINGHUYSEN.

No. 66.

Mr. Martinez to Mr. Frelinghuysen.

[Translation.]

LEGATION OF CHILI IN THE UNITED STATES,
Washington, January 10, 1882. (Received January 10.)

SIR: I have had the honor to receive your excellency's note of the 7th instant, whereby you were pleased to request me to furnish to you, in writing, the explanations which I had the honor to give you on the occasion of our conference which was held on the 5th instant, in reference to the circumstances which preceded or accompanied the arrest of Don Francisco Garcia Calderon, at Lima, and the bearing which that act might have upon the very friendly and cordial relations which happily exist between your excellency's government and mine.

I thank your excellency for the opportunity which you have thus afforded me to contribute, by means of a plain and unvarnished statement, towards drawing still closer the bonds of sincere friendship which unite our respective countries.

I have already taken occasion, verbally, to furnish the explanations which I now have the pleasure to put in writing, three times to Mr. Blaine, your excellency's honorable predecessor, and once to your excellency. Both Mr. Blaine and your excellency were fully satisfied, and I did not think it necessary to reduce said explanations to writing, because it did not appear to me that the Secretaries of State had attached serious importance to a hypothesis which, in my humble opinion, had no foundation worthy of consideration. Nevertheless, in the memorandum which I had the honor to address to the Department of State on the 21st of November last, I explained all the circumstances relative to the ephemeral government of Garcia Calderon, and stated the incontestable reasons that had existed for its abolition, which reasons are altogether un-

connected with the fact of the recognition of that government by that of your excellency.

I must, moreover, remind your excellency that during our interview I called your attention to a very significant incident, which was that a fortnight before the arrest of Garcia Calderon at Lima, I read to the Hon. Mr. Blaine, in the presence of Mr. Hitt, his First Assistant Secretary, a letter addressed to me by Rear-Admiral Lynch, in which the latter stated that if Mr. Garcia Calderon did not yield obedience to the order issued by him (Lynch), forbidding him to perform jurisdictional acts within the lines of the Chilian occupation, he should be obliged to put him under arrest. Admiral Lynch could not know when or how Mr. Garcia Calderon would disobey that order, and when I communicated the contents of the aforesaid note to Mr. Blaine (which I did as an evidence of the most perfect frankness and of the fullest confidence in the sincerity of the friendship of the United States for Chili), I considered the event in question as being a future and contingent one which would probably never come to pass.

After the repeated and terrible disasters which Peru had suffered, it seemed that none but a man of very high intellectual and moral qualities could unite the scattered elements of order existing in the country, in order to treat for peace. Peru has always had military governments, which are better respected in countries in which public order stands on no solid foundation; and when the attempt was made to establish a civil government there, it was found impossible to advance beyond the initiatory steps.

Chili has never desired to interfere in the domestic politics of her enemy; she has, nevertheless, not failed to study with the deepest interest the character and qualities of the men who have taken, or who might be called to take, a prominent part in public affairs, and who seemed capable of rising to the height which the situation demanded, of holding the reins of government with a firm hand, and of inducing their fellow-citizens to take the only course reserved for them by the laws of war. It was natural, too, that sensible men in Peru should think of seeking and finding the man whom the situation demanded, in order that they might place the destinies of their country in his hands.

Mr. Garcia Calderon was mentioned, although it was said of him that his character lacked most of the qualities which the circumstances required; that he was not fit to govern, that he was deficient in courage, and that he had no following upon which he could really rely. It was, however, added that he was unstained by peculation or extortion; that he had the reputation of being an excellent lawyer, and that his elevation to power would meet with no serious opposition.

My government had no reason to express an opinion with regard to the choice of the person who was to be placed at the head of affairs in Peru. It appeared to it sufficient that Mr. Garcia Calderon enjoyed a good reputation for honesty, and it decided to lend him a certain amount of co-operation and support, in order to furnish him the means and the opportunity to establish his authority.

The Chilian plenipotentiaries at Lima informed the future President of Peru what where the conditions of peace, and he accepted them as relatively good, and promised to labor with a view to making them the basis of a treaty.

Chili did not recognize, nor was she willing solemnly to recognize, Garcia Calderon's government, for many reasons. When he asked that his government might be formally recognized, so that he might be enabled to gain some ascendency in public opinion, this was refused, on the

ground that his government did not yet possess any condition of solidity, respectability, or independence.

In fact, the manner in which that provisional President rose to power could not have been more irregular and anomalous than it was, and the position in which he was placed, as regarded his own country and the army of occupation, was still more extraordinary and exceptional. He exercised no jurisdiction save within the limits of the territory which was under the control of the Chilian authorities, and he was under the wing and the moral and material protection of the army of occupation. He might at any time have been arrested by any police officer.

Your excellency knows that a government of that kind could not be recognized by that of Chili, which needed, in order to be able to treat, to have a respectable and respected government to treat with, and one that was able really to pledge the faith of its nation.

Your excellency's government, undoubtedly, had more liberty of action than did mine, because it did not need to enter into any ulterior negotiations with the Peruvian Government, and was consequently able to act with greater freedom in contributing to give Garcia Calderon the moral prestige and authority of which he stood in need.

Under such auspices, Garcia Calderon began to act in violation of all his previous promises, and was guilty of a series of acts subversive of the legitimate rights and interests of Chili, so that he rendered himself absolutely unworthy of any toleration or indulgence on the part of my government.

In the memorandum of November 21, to which I refer, I mentioned four or five of the principal acts which, with evident reason, caused that gentleman to lose the favor of the Chilian Government. In order to avoid repetitions, which would make this communication too long, I will simply refer to what I said in that paper, which I had the honor to transmit to your excellency immediately after your elevation to the high position which you now occupy.

Mr. Garcia Calderon having been guilty of these offenses, and having openly declared that he would not treat on the bases proposed by Chili, the doom of his government was irrevocably sealed.

In the steps subsequently taken by the Government of Chili, that government paid no attention to the proceedings of General Hurlbut, upon which the provisional president of Peru said that he based his reactionary conduct, but acted exclusively in accordance with its own rights.

The fact is that my government never believed that General Hurlbut was faithfully interpreting the lotty, considerate, and friendly policy of the United States Government.

The first step taken by General Lynch (who had been duly authorized to do so) was to deprive Garcia Calderon of the arms which, trusting to his honor, he had lent him. Subsequently, when that gentleman's attitude became more dangerous, he was dispossessed of the bureaus which he had organized and was peremptorily ordered to perform no governmental or jurisdictional act within the lines of the Chilian occupation. Still later, when he intentionally violated this order, he was arrested and sent to Chili, but was treated with every courtesy and attention.

The American General Scott acted, under similar circumstances, in the same manner in Mexico.

Even if the provisional government had been recognized by all friendly powers, Chili would have had to act as she did, not only for the maintenance of her rights, but from a sense of her own dignity and self-respect. And even if Chili had recognized that government, that circumstance

would not have rendered it inviolable, and she would still have been obliged to act precisely as she did.

Consequently I can and do assure your excellency, in the most formal and solemn manner, that my government had not the most remote intention or the slightest purpose to impair, in any way, the state of friendship and cordialty which previously to those events, during the same and subsequently, has existed, and which it has always desired should exist, between it and the Government of the United States.

I likewise had the honor to remark to your excellency, in our interview of the 5th instant, that certain financial schemes had thrown difficulties in the way of the conclusion of peace with Peru, and that while those schemes remained on the carpet it would be difficult to reach the desired solution. I may now add that the parties interested in those operations are endeavoring, both through the public press and such other means as they find available, to predispose the United States against Chili, and that they spare no pains to present the most natural and logical acts of my government in a wrong light.

I avail myself, &c.,

M. MARTINEZ.

No. 67.

Mr. Martinez to Mr. Frelinghuysen.

LEGATION OF CHILI IN THE UNITED STATES,
Washington, January 10, 1882. (Received January 11.)

SIR: I have the honor to inform your excellency of the latest news received by this legation through the Pacific mail.

The fact that Rear-Admiral Montero has deserted from the ranks of his former chief, the dictator Piérola, is fully confirmed. Montero has accepted the vice-presidency of Peru, which was offered to him by several gentlemen of Lima, called *notables*. He needed no other investment to call himself the "constitutional president."

As this expression has been lately used in a very extraordinary sense, so that many of the journals of the United States have unconciously made use of it, I deem it necessary to acquaint your excellency with its meaning.

The last constitutional president of Peru, that is to say, elected by the people according to the constitution, was General Mariano Ygnacio Prado, whose term came to an end long ago. Those who have succeeded him in exercising the supreme power have been as constitutional as the emperors of the lower empire who had themselves proclaimed by their troops. They are called constitutional presidents, because, after having irregularly assumed the supreme power, they enforce one of the many constitutions which Peru has given to herself since its independence.

As your excellency can easily perceive, that is an abuse of the term which tends to pervert every idea of regular government.

Notwithstanding this, Mr. Hurlbut gave to the provisional government of Garcia Calderon the name of constitutional, and revolutionary to that of Piérola.

These pernicious errors ought to give way to a correct and suitable knowledge of persons and things.

Montero issued at Cajamarca, a town situated in the northern mount-

ains of Peru, a circular under the date of 28th of October, 1881, addressed to the governors, stating that he was armed against the invaders, and that he hoped to effect a happy solution of the pending questions by virtue of the effective mediation of the United States Government.

The same chief circulated extensively the strangest document to which it is possible to refer in the history of diplomacy. This was a letter or manifest addressed by General Hurlbut to the so-called *notables* of Lima, which your excellency is acquainted with, but a copy of which is herewith inclosed.

The same Mr. Montero wrote to his former chief under date of November 22, 1881, a letter explaining to him the grounds of his desertion.

Meanwhile, Mr. Nicholas Piérola gave up his nominal position, by issuing a decree and a proclamation under the date of November 28, 1881.

According to the latest news, the troops under Montero do not amount to more than 1,500 or 1,600 men, poorly armed and equipped.

As your excellency can see, that is but a sad comedy.

The so-called provisional president, Señor Francisco Garcia Calderon, is at present in the town of Quillota, in the province of Valparaiso, Chili.

Caceres, the chief of the *Monteneros*, is in Chosica, a short distance from Lima. He has not declared himself in any way, and we have every reason to believe that he will act on his own account and at his own risk, and will presently recognize the proclamation made to him by his own army, which does not exceed three thousand or three thousand five hundred men. The existence of this leader is virtually dependent on the will of the Chilian general-in-chief, who can annihilate him whenever he chooses to attack him.

As regards Mr. Piérola, he is at present in Lima, the report of his having sailed for Europe having proved incorrect He is living tranquilly, as a private citizen, under the security afforded by the protection of the Chilian army of occupation.

It is clearly evident that whenever the Chilian army shall abandon the Peruvian capital anarchy will begin its disastrous work, and for this the Peruvians alone are responsible.

My government had an army in readiness to proceed to Arequipa, in order to clear the situation, and thus facilitate the securing of peace; but it has lately desisted from this purpose because it felt that the purely local results to be secured would not correspond to the sacrifices which a new campaign involved.

An expedition, however, is ready to march to Janja, and will put an end to its occupation by Cáceres. This will only leave Rear-Admiral Montero in the north of Peru. He is without prestige, without arms, without resources, and with no other territory over which to exercise his authority than that on which he treads.

If the sensible people still remaining in Peru do not see that the time has arrived to accept the conditions which Chili, with perfect justice, demands, they will bring upon their country all the consequences of that obstinate and incomprehensible resistance. I do not believe that there is in the history of the world an instance of a country which, being so impotent to defend itself, showed itself so blindly stubborn in enduring the laws of war. Everything which in any way tends to strengthen that resistance is, and will be, contrary to the principles which govern human affairs.

General Lynch, seeing that all the branches of municipal revenues

were in complete disorder and that their management was irregular, ordered the appointment of a supervisor, a measure which degraded the municipals, who, in consequence, threatened to resign their posts. The journals have indeed published the fact that the alcalde Canevaro, and other municipals, had resigned, but we are not aware that such is the case.

The Bolivian general, Campero, is at the head of a small army, and threatens to invade Tarapacá, but I assure your excellency, with an assurance based upon many and incontestable reasons, that that threat cannot possibly be realized. There is not the remotest fear that a drop of blood will be shed on that side.

With sentiments of the highest consideration,

M. MARTINEZ.

[Translation of inclosure with Mr. Martinez's note of January 10, 1882.]

The following communication has been addressed by the North American minister to the notables of Lima:

GENTLEMEN: At your request I make the following declarations:

1. The United States of America are strongly in favor of the cessation of hostilities between Chili and Peru, and the speedy restoration of peace.

2. They are decidedly opposed to any dismemberment of the territory of Peru, except with the free and full consent of this nation.

3. They are of the opinion that Chili, as the result of the war, has acquired the right of indemnification for the expenses of the war, and that Peru cannot refuse its payment.

The Government of Chili knows that these are the views of the United States, but the divisions which exist in Peru paralyze the good effects (offices?) of the United States and afford a pretext to Chili for eluding action by the latter in conformity with our desires, and for prolonging the state of war and the military occupation of Peru. Chili says: "We also desire peace, but there is here no one competent to treat to that end." This statement is unfortunately true. For such a condition of affairs, the only remedy is to be found in Peru itself. Union under whomsoever may be chosen will dispel the pretext of Chili, and will give to the United States an advantage which they need, and of which they will be able to take advantage. Nothing else, in my judgment, will save Peru from indefinite military occupation by Chili. Peru must herself effect her own salvation through the sacrifice of personal conditions (ambitions?) on the altar of the country's redemption.

I am, &c.,

S. A. HURLBUT.

A copy.
The secretary of legation.

F. PINTO.

No. 68.

Mr. Frelinghuysen to Mr. Martinez.

DEPARTMENT OF STATE,
Washington, January 16, 1882.

SIR: In acknowledging the receipt of your excellency's note of the 10th instant, permit me to convey to you my gratification in receiving your assurance that the Government of Chili, in its attitude toward the Calderon Government in Peru and in its treatment of President Calderon, had no intention or purpose to impair in any way the state of friendship and cordiality which has always existed between it and the Government of the United States, and which it is the sincere wish of this government may be perpetual.

Accept, sir, &c.,

FRED'K T. FRELINGHUYSEN.

No. 69.

Mr. Martinez to Mr. Frelinghuysen.

LEGATION OF CHILI IN THE UNITED STATES,
Washington, January 18, 1882. (Received January 21.)

SIR: I continue the agreeable task of communicating to you the news brought by the last mail.

The rumor current after the arrival of the last mail, to the effect that the municipal authorities had been discharged from their duties in Lima, has proved correct. The general-in-chief of the Chilian army felt himself obliged to take this measure because the municipality wished to act with absolute independence of the executive authority, which was in every way impossible, and also because the management of the municipal funds was in every way improper. On the other hand, the municipality failed to make the necessary expenses for the police, and security and cleanliness of the city, notwithstanding the fact that they had more than sufficient resources for it.

These circumstances induced the general-in-chief of the army of occupation to name a superintendent of the municipality; and since the mayor (alcalde) refused to recognize the measure, the rear-admiral was forced to issue a decree with the date of 7th of December, declaring that the functions of the municipality had ceased, and that Señor Adolfo Guerrero was nominated as political chief of the department of Lima.

This measure was indispensable, and, for considerations which had no right to exist, had not been taken beforehand because it was impossible to maintain a system whose political and local administration obeyed principles, interests, and regulations completely independent and opposite.

At present there are in Peru four supreme chiefs: General Montero in the north; General Cáceres in the center; Colonel Latorre in Arequipa, Puno, and Cuzco; and another, Colonel Pacheco Cespedes, in Moquegua, none of whom recognizes the other as superior.

A manuscript of a letter said to have been sent by General Hurlbut to the guerrilla chief Cáceres has been very widely circulated in Lima. In Lima the authenticity of this document was not doubted, and Mr. Hurlbut took no steps to deny it. Your excellency will permit me to inclose a copy of this strange document, which has been published in the press of Panama. I received a manuscript copy, with the assurance that it was authentic.

I take pleasure, &c.,

M. MARTINEZ.

[Inclosure in note from Mr. Martinez, of January 18, 1882.—Translation.]

Mr. Hurlbut to General Cáceres.

DEAR SIR: I did not, for weighty reasons, answer your letter by the same person who brought it to me.

The United States have already recognized the constitutional government, first in the person of Dr. Don Francisco Garcia Calderon, and afterwards in that of the Vice-President, Rear Admiral Montero.

It is, consequently, evident that it is impossible for it to recognize any other government.

The plan of a junta appears to me to be altogether impracticable in fact and inadmissible in theory. A government under this form would, in my judgment, only

lead to disagreement and discord, and instead of assuring unity of action, would involve uncertainties and hesitations.

I am anxious to see the speediest disappearance of all parties, and that all Peruvians may be united for the maintenance of a constitutional *régime*. This would demand sacrifices on the part of some, but all good causes are strengthened precisely in this way—by sacrifices.

Within ten days or two weeks there will reach this city special commissioners sent out by the United States. It is of the highest importance to say to them that all Peru is at last united in the sole aim of saving the country.

I see no other way by which you can add additional luster to your high reputation, nor by which you can render such good service to the cause of the independence of Peru.

I am, &c.,

S. A. HURLBUT.

LIMA, *December* 11, 1881.

CHINA.

No. 70.

Mr. Holcombe to Mr. Blaine.

[Extract.]

No. 28.] LEGATION OF THE UNITED STATES,
Peking, December 16, 1881. (Received February 13, 1882.)

SIR: Shortly after closing my dispatch, No. 21, in the matter of the Danish Telegraph Company's monopoly scheme, I learned that the agent of the company had renewed his efforts at Tientsin to secure the final approval of his propositions by the Chinese Government.

It therefore seemed desirable to lay before the foreign office your views upon this subject as contained in your instructions Nos. 122 and 125, both in order that this government might know that Mr. Angell's course in the premises had been approved by the Department, and also with the hope that your opinions might have weight in deciding the course of the Chinese Government in the matter.

Accordingly I addressed a dispatch to Prince Kung, a copy of which is inclosed. In it, after summarizing the contents of your instructions referred to above, I asked His Imperial Highness to inform me *officially* whether His Imperial Majesty had approved the agreement made between the agent of the Danish company and Viceroy Li.

* * * * * * *

I inclose a translation of His Imperial Highness's reply. It is *official*, bearing the seal of the foreign office, and far more satisfactory than I had reason to expect. And it declares positively that the monopoly scheme has not been approved by this government.

But by far the most interesting and valuable part of His Imperial Highness's reply is found in the second paragraph which declares that whenever an American company shall desire to lay a telegraph cable between Japan and China an arrangement will be made "which shall not disappoint the hopes of the American company in the least degree." In view of the intense and traditional conservatism of China upon this and all kindred questions, the importance of this concession can hardly be overestimated.

Having received such satisfactory assurances from the foreign office, I closed the correspondence by thanking Prince Kung for the prompt and explicit answer which he had given.

As the German minister had acted in conjunction with this legation in this business, I have furnished him with a copy of Prince Kung's letter.

I beg your approval of my action in the premises.

I have, &c.,

CHESTER HOLCOMBE.

[Inclosure 1 in No. 28.]

Mr. Holcombe to Prince Kung.

DECEMBER 8, 1881.

YOUR IMPERIAL HIGHNESS: In reference to the correspondence which has passed between the foreign office and Mr. Angell, late United States minister, upon the agreement entered into between His Excellency Li and the Great Northern Telegraph Company, under the terms of which the Government of China agrees that, "within a period of twenty years from date not to allow any other person to land telegraph cables in the entire empire, including all foreign settlements and Formosa," it becomes my duty to inform Your Imperial Highness that Mr. Angell forwarded copies of this correspondence to our government, and that I am now in receipt of instructions in response. The Government of the United States has approved the entire course of the late minister in this business. It has further authorized me to say that such a monopoly would be not only prejudicial to its interests, but also contrary to its idea of the true interests of China, as the granting of monopolies of any kind is not conducive to public good.

I shall be glad to be informed, officially, whether His Imperial Majesty has or has not approved and confirmed the agreement referred to.

I have, &c.,

CHESTER HOLCOMBE.

[Inclosure 2 in No. 28.]

Prince Kung to Mr. Holcombe.

PEKING, *December* 14, 1881.

Prince Kung, Chief Secretary of State for foreign affairs, herewith makes a communication in reply:

I have had the honor to receive your dispatch of the 8th instant referring to the establishment of telegraph lines in China; remarking that you were in receipt of the views of your government upon the subject, which you were authorized to give to me; and requesting to be officially informed whether His Imperial Majesty has or has not approved and confirmed the agreement entered into between His Excellency Li and the GreatNorthern Telegraph Company.

This office has discussed this business in all its bearings with Minister Angell, a discussion with which you are doubtless familiar.

If hereafter the United States desire to lay a telegraph cable from Japan to China, a satisfactory and suitable arrangement will be made, and one which shall not disappoint the hopes of the American company in the least degree.

As to the propositions heretofore made by the Great Northern Telegraph Company, they were submitted by the Company to His Excellency Li, and approved by him; but they have not been laid before His Imperial Majesty.

His Excellency Li, in dealing with this question certainly ought not rashly to enter into any arrangement which would not conserve the interest of the government and people of China.

[Inclosure 3 in No. 28.]

Mr. Holcombe to Prince Kung.

DECEMBER 16, 1881.

YOUR IMPERIAL HIGHNESS: I have had the honor to receive Your Imperial Highness's dispatch of the 14th instant in regard to the agreement entered into between his excellency Li, and the Great Northern Telegraph Company, in which your imperial highness says, "If hereafter the United States desire to lay a telegraph cable from Japan to China a satisfactory and suitable arrangement will be made, and one which shall not disappoint the hopes of the American company in the least degree; and that

the propositions made by the Great Northern Telegraph Company had been approved by his excellency Li, but had not been laid before the Throne."

I beg leave to thank your imperial highness, both for the promptness and the explicit language of this reply. It will be at once transmitted to my government.

I have, &c.,

CHESTER HOLCOMBE.

No. 71.

Mr. Holcombe to Mr. Frelinghuysen.

No. 36.] LEGATION OF THE UNITED STATES,
Peking, December 27, 1881. (Received March 9, 1882.)

SIR: Referring to Mr. Angell's dispatch No. 212, of September 14, which gave the history of the negotiations between the diplomatic body and the foreign office upon the subject of "transit passes outward" for some months prior to June 20, I have now the honor to inclose several papers which have passed between the Chinese and Mr. von Brandt, and which serve to bring the discussion down to the present time.

These papers will serve to show you that no progress has been made in these negotiations since Mr. Angell wrote. It is unnecessary, therefore, for me to do more than to refer you to his dispatch, and to remark that my inclosures form a continuation of the discussion upon two points: 1st, whether foreigners have a right to engage in manufacturing enterprises at the ports; and 2d, as to the dues and duties properly leviable upon native produce bought or manufactured at the open ports and not exported.

I have, &c.,

CHESTER HOLCOMBE.

[Inclosure 1 in No. 36.]

Prince Kung to Mr. Von Brandt.

On June 20 a despatch was received from your excellency stating that in view of the difficulty of coming to an understanding on the subject of native produce purchased by foreign merchants, the proper course would be to follow the treaties already in force. The dispatch also contained a categorical restatement of the points relating to the trade in native produce, &c.

With regard to your excellency's assertion that native produce purchased by foreign merchants at the ports may be used for manufacturing purposes, or that it may be resold at the port, in its original or manufactured state, we have to reply that no explicit statement to this effect is contained in any of the treaties or regulations for trade; your excellency says, in respect to this that there is no reason why the treaties and regulations need not be followed; but we do not know which treaty or regulation it is that you say ought to be followed. The purchase of native produce by foreign merchants, if not exported, but if used for manufacturing purposes, or resold at the port, would be equivalent to allowing foreigners to do the same trade as Chinese merchants, and would be prejudicial to the business of the latter. Moreover, if the goods are not exported, the duty to which they are liable will be lost to the imperial exchequer. In view of this loss to the revenue, and prejudice to the interests of Chinese merchants, it is the duty of the local authorities, in observance of the treaties, and according to circumstances, to decide upon methods of procedure that will meet the necessities of the situation. And it is further desirable that this office should consult with your excellency and the representatives of the other treaty powers with a view to reaching some satisfactory mode of procedure.

In the draft presented to us by your excellency, you presented two propositions which you suggested should be put in operation as a trial; but as it is not clearly stated in any of the treaties and regulations that native produce purchased at a port may be used for manufacturing purposes, or resold at the port, we proposed to dis-

cuss with you another method of procedure which had suggested itself to us; but your excellency insisted that our proposition was in contravention of the letter and spirit of the plain language of the treaty, and widely divergent from the practice which had been followed for the last twenty years. We are puzzled to know how this can be.

If it were clearly stipulated in the treaties of the different powers that native produce purchased by foreigners at a port may be used for manufacturing purposes or sold at the port, one naturally thinks that the practice must already have been in eration ever since commercial relations have existed at the open ports. Where is necessity for stipulating clearly at this time that it be introduced as an experiment? And why the necessity for stating clearly that if either of the parties sees any objections to it (he will be at liberty to denounce it)?

In our many consultations with your excellency on this subject of regulations for the trade in native produce, we have not failed to be actuated by sincere motives in our consideration of the subject, always hoping that benefit might result to all parties. Hoping that your excellency will consider this subject with an unimpassioned mind.

PEKING, *July* 19, 1881.

[Inclosure 2 in No. 36.]

Mr. von Brandt to Prince Kung and the ministers of the Yamên.

I have the honor to acknowledge the receipt of your imperial highness and your excellency's note of July 19, referring to transit-passes outwards and trade in native produce in general, which questions have for some time past formed the subject of my negotiations with the Tsung-li Yamên.

I have placed this note, as well as the proposals handed to me by some of the ministers at the conference held at the Yamên on July 10, before my colleagues, the representatives of the other treaty powers, and I have been authorized by them to make the following statement to your imperial highness and your excellencies.

My colleagues and myself are of opinion that the text of the treaties give to foreigners full liberty to transact every kind of commercial business at the open ports, subject only to such conditions and restrictions as contained in the treaties themselves, or in the rules and regulations agreed upon conjointly since the conclusion of the treaties.

Your imperial highness and your excellencies say in your note of July 10, that such liberty of trade does not exist, because it is nowhere stated in the treaties that goods bought at the port might be sold there or used for manufacturing purposes. But besides that, where permission to trade is granted, such permission must be considered as a general one unless special restrictions are added to it. The rule that native produce carried from the interior to a port may be exempted by payment of the half duty from all inland charges *only if bona fide intended for shipment to a foreign port* (Chefoo convention of 1876, section III, Art. IV) is in itself sufficient proof that no such obligation to export to a foreign port exists for native produce having paid all inland charges, *i. e.*, having been brought from the interior under payment of them, or having been bought at the port.

The foreign merchant has further not only the right freely to dispose of native produce to foreigners and Chinese alike at the port unless the produce be brought there under transit pass; but he is also entitled to forward it for sale coastwise (see Regulations of October 30, 1861, III, [Mayers, p. 204]) or inland (same Regulations, I, 3), provided he pays in the first instance export duty and coast-trade duty, and in the second one all charges imposed on goods *in transitu* by the provincial governments.

With regard to native produce being used for manufacturing purposes the French treaty of 1858, Art. VII, the German treaty of 1861, Art. VI, the Belgian treaty of 1865, Art. XI, and the Austro-Hungarian treaty of 1869, Art. VIII, give to the subjects of these powers the right to exercise at the open ports any industry they like, no restriction being attached to this concession, neither with regard to the materials to be used, nor to the disposal of the goods so manufactured.

These are the views held by my colleagues and myself with regard to the trade in native produce, and which we must maintain to express the principles laid down by the treaties and acted upon until lately, when illegal attempts have been made by the Chinese authorities at some of the open ports to put them aside. Under these circumstances my colleagues and myself, while willing and anxious to unite with the Tsung-li Yamên in the discussion and execution of any measures which may be deemed necessary for the protection of the Chinese revenue, or the better and more satisfactory execution of treaty stipulations, do not feel at liberty to enter upon a discussion of those rules and regulations laid down in the treaties which are rightly considered as the basis of the relations between China and foreign powers, and which they have

neither the will nor the power to alter or to apply in any other way than explained in this note.

There are, however, two points in your imperial highness and your excellencies' note of July 19, which my colleagues and myself do not wish to pass under silence, as by doing so your imperial highness and your excellencies might suppose that we agreed with the views expressed in them by the Tsung-li Yamên. The one is the statement that if the right freely to trade in native produce at the port or to subject it to a manufacturing process was contained in the treaties, it would not be necessary to introduce it now as an experiment, or to state expressly in the arrangement under discussion that either of the contracting parties should be at liberty to denounce it; the other, the opinion put forward in the note in question, that it was the duty of the local authorities in certain cases referring to the execution of the treaties to act according to their own views and to the necessities of the case.

With regard to the first point it will be sufficient to draw your imperial highness and your excellencies' attention to the declaration made by me in my note of November 26, 1880, as well as on other occasions, that the rules contained in sections II and III, and referring more especially to duty-free goods and goods manufactured from native produce were nothing but a reassertion of treaty rights rendered necessary by the persistent efforts of local authorities to ignore them. The denunciation of the arrangement under discussion by one of the contracting parties would therefore have rendered inefficient not those treaty rights, but only such new stipulations as had been embodied in the same arrangement.

With regard to the second point, the independent interpretation of the treaties by the local authorities, your imperial highness and your excellencies will remember that it has been at the express and urgent demand of the Chinese Government that the discussion and settlement of difficulties arising under the treaties has been transferred from the local authorities to the central government and foreign representatives at Peking. Under these circumstances my colleagues and myself have the right to expect that it shall not further be left to the local Chinese authorities to substitute their own individual views for those of the central government, and thereby provoke discussions and conflicts not unlikely seriously to endanger the good relations between China and the treaty powers. My colleagues and myself must insist that in future in all cases referring to the execution of the treaties the provincial authorities shall not any more act upon their own views and responsibility, but upon and under the instructions of the central government.

Having thus laid before your imperial highness and your excellencies the views of my colleagues and myself on the question of trade in native produce, I have the honor to add that your imperial highness and your excellencies, in your note of July 19, have expressed the desire to see the negotiations continued. I shall be most happy to resume the *pour parlers* on this subject with the Yamên, provided they are carried on with the view of removing the Yamên's complaints as to the illegal use of transit passes outwards, and those of my colleagues and myself with regard to the illegal attempts of local authorities to ignore the stipulations of the treaties referring to the treatment of duty-free foreign imports and native produce and the use or exportation of goods bought or manufactured in the port.

I avail, &c.,

VON BRANDT.

PEKING, *September* 18, 1881.

[Inclosure 3 in No. 36.]

Foreign office to Mr. von Brandt.

SEPTEMBER 29, 1881.

On the 19th of September we had the honor to receive your excellency's dispatch of September 18, by which you informed us that you had submitted our dispatch (of the 19th July) and our proposals (of the 10th July) regarding the treatment of native produce, which for some time past had formed the subject of deliberation between your excellency and our office, to your colleagues, the representatives of the other treaty powers.

What your excellency says in this dispatch, viz, that according to all the treaties foreign merchants have the right to engage in *any* kind of trade at the open ports, is, however, only a one-sided hypothetical argument. The tenor and meaning of the treaties and special regulations is quite clear and distinct, and it does not therefore seem to be allowable that by problematical assertions of this kind the danger of manifold misunderstandings should be created.

You further state that the freedom of trade is subject to such conditions and restrictions only as are explicitly contained in the treaties or in some special regulations. If, then, *restrictions* of trade, in order to be binding, must be explicitly stipulated, how, then, in the reversed case, could it be lawful to claim *liberties* of trade summarily and as a matter of course even without their having been explicitly stipulated? The

matter lies rather thus: That neither liberties nor restrictions of trade, inasmuch as they have not been explicitly stated in the treaties, can be simply and positively claimed by way of inference, by the one or the other party, on the ground of one-sided opinions. Far from this. It is rather necessary that an agreement should be arrived at on the ground of mutual deliberations before it is permitted to act accordingly.

If, as your excellency holds, the simple *non-existence* of a stipulation in the treaties and special regulations, by which some branch of trade is forbidden, were sufficient in order to infer therefrom that merchants are at liberty to engage in it—in this case anything not mentioned in the treaties and special regulations (and there are a great many such things) would just on this account be permitted; yet what would the foreign powers say were China to take up such a position in her relations with them?

If in Section III, Article IV, of the Chefoo convention it is said that if foreign merchants pay the half duty and take out a transit certificate for this purpose they may then transport the goods to the port, but that this privilege *cannot* be claimed if the native produce in question is not the property of a British merchant, or if it is not really intended for conveyance to a port, this means only that none but native produce purchased by foreign merchants for exportation to foreign countries enjoys the privilege of the transit certificate and of the payment of the half duty; whereas when this is not the case such produce is subject to the regulations existing for the interior of China; but it follows by no means therefrom that native produce purchased at the port for which no transit certificate has been taken out need not be exported.

The third section and the third paragraph of the first section of the (in Chinese so-called) "General Regulations" (of October 30, 1861) further relate to the treatment at the custom-house of merchandise which has arrived from another port, of a manufacturing process, and of a sale of goods which have not been exported at the port of purchase the "General Regulations" do not say anything expressly at all, and it is therefore not admissible to ascribe such a meaning to them.

Your excellency further appeals to Art. VII of the French, Art. VI of the German, Art. XI of the Belgian, and Art. VIII of the Austrian and Hungarian treaties in order to prove that subjects of the above-named countries are "at liberty to engage in industrial enterprises at the open ports;" but this expression relates merely to the execution of sundry labors in general, and means that Chinese and foreigners are permitted to engage themselves as laborers and workmen, and work; but with the manufacturing of goods it has nothing to do, nor does it signify that goods so manufactured may be sold as a matter of course. Each treaty stipulation, in fact, has its own individual meaning, and the different meanings must not be intermixed with each other.

The treaty stipulations convened with different countries must, of course, on both sides, be conscientiously adhered to, and if, in the proposals under consideration, it is said with regard to native produce bought at the port that they shall be put into force *provisionally* the reason thereof simply is because the treaties say nothing with regard to this point; that, on the other hand, the local authorities have the right in certain cases to adopt measures according to their own judgment. This is expressly stipulated in the treaties concluded with different countries, and is a point which ought always to be adhered to. So, for instance, with regard to the regulations now in course of deliberation in reference to duty-free goods and to the manufacturing of native produce, it must, of necessity, be stipulated that, if the one party should wish it so, the new agreement shall again be cancelled; for the authority of convening treaty regulations rests in the hands of our Yamên and of the representatives of the treaty powers; but whether something is advantageous or injurious can only be determined after the local authorities have put it during some time into practice.

As regards the treatment of native produce, we do desire as soon as possible to come to an understanding with your excellency and to put the new rules into force, but only under the condition that both parties should profit thereby, in order that what once has been stipulated should also remain in force for a long time.

THE PRINCE OF KUNG and the
MINISTERS OF THE TSUNG-LI YAMÊN.

No. 72.

Mr. Holcombe to Mr. Frelinghuysen.

[Extract.]

No. 54.] LEGATION OF THE UNITED STATES,
Peking, January 21, 1882. (Received April 7.)

SIR: Referring to the voluminous correspondence between this legation and the Department in regard to the "Woosung Bar," and the re-

peated efforts made to secure the removal of this very serious obstruction to the commerce of Shanghai, I have the honor to inclose, herewith, a newspaper extract from which the Department will learn with pleasure that steps have at last been taken by the Chinese authorities to dredge the bar and deepen the channel of water communication between Shanghai and the sea.

I have no further information as to the details of the scheme than may be found in the extract inclosed.

* * * * * * *

I have, &c.,

CHESTER HOLCOMBE.

[Inclosure in No. 54.—Extract from the Shanghai Courier of Friday, January 6, 1882.]

AWAY WITH IT.

At the end of last month we were able to give our readers the intelligence that at length the Woosung Bar is to be eradicated. A contract was signed on 27th December by the Taotai Liu on behalf of the Chinese Government on the one side, and Mr. W. Watson, of Messrs. Maclean & Co., on the other, for the importation of a dredging machine to be used specially for the removal of the "heaven sent barrier." Thus, after ten years' continuous exertion on the part of the weightiest and wealthiest circle of the community, backed by the Chamber of Commerce, and aided by the influence of China merchants in England, that which these combined agencies have failed to achieve has been accomplished by an individual firm. It is a significant fact that the China of to-day is a country which at last has awakened from its long repose in Sleepy Hollow, and is fully aroused to the necessity of keeping pace with the giant strides of the West. In olden days the Woosung bar was regarded by Prince Kung and the official celestials generally as an omnipotent barrier to the Western barbarian. By them it was looked upon as a fragment of the great wall of China sunk in the mouth of the Whangpo. As the great wall was thought to be a most perfect means of excluding the outer barbarians from entering on the domains of the Son of Heaven, so this bar was looked upon as a most effective protection against foreign war-ships attempting to come up to Shanghai. It was this feeling that caused the Chinese officials to offer that impalpable but persistent opposition to any preliminary measures proposed to abolish this obstacle that has, until lately, characterized the celestial nation in dealing with the foreigner. As we have stated, the determined outcry of the foreigners, and their customary energy in endeavoring to remove this bar, dates from some ten years back. In olden days when the vessels visiting this port were nearly all sailing ships, those of deep draught were content to wait for days at the bar for water. Those were the "good old times" when there was only a monthly mail delivered by the P. and O. in steamers no bigger than the present Tientsin packets, when Shanghai made pleasure a business and business a pleasure, when there was none of the hurry-scurry worry, and fight for existence which characterises the settlement of to-day. But now, immediately ships arrive at Woosung, it is imperative that they should force a way over the bar, and come into port with all possible speed. To assist them in doing this a swarm of cargo-boats have cropped up on the river, and they are always in readiness to hurry to the bar, and lighter ships of deep draught sufficiently to enable them more easily to force their keels through the mud of the bar.

In consequence of this, the leading merchants, and notably the Chamber of Commerce, brought their weight and energy to bear on the Chinese with a view to the removal of the obstruction. Thus at great expense, and with considerable perseverance in this direction, Messrs. Escher and De Ryke were instructed to survey the river and report upon the cheapest and most efficient method by which a clear channel could be maintained. The exhaustive and elaborate reports of these gentlemen will be sufficiently fresh in the recollection of our readers to dispense with recapitulation. But able and practical as were the suggestions of these experts, and backed as they were by the influence of the Chamber of Commerce, they were never practically recognized by the Chinese authorities. Nor did Major Bridgford's report achieve any greater success, although the method which he advocated for clearing the river was estimated to cost no more than Tls. 150,000. We may here remark that, at the period when the name of the Heaven-sent barrier was given to this bar, if the foreign merchants had agreed to remove the obstruction at their own expense, it is more than questionable if the Chinese authorities would have permitted such an action, judging from the spirit in which they regarded this impediment to the navigation of

the Whangpoo. Comparing the opinions held by the Chinese on this matter some ten years since with those which have been just recently expressed by them in their latest action, we are struck with the advance the "black-headed people" have made in regard to emerging from a strict and bigoted conservatism into a liberal and progressive mode of thinking and acting.

The contract just signed is a significant fact of China's progressiveness, and forms a conclusive answer to those who are ringing eternal changes on the antiquated opinions formed of the conservatism of the nation. In respect to the method to be employed in removing the bar under the contract recently signed, we know but little, except that a dredger vessel is being built by Messrs. William Simon's & Co., of London Works, Renfrew, Scotland. It will be schooner-rigged, with twin screws, and of 80-horse power, nominal. It will be what is designated the "patent hopper dredger," and will carry 600 tons of mud at an average speed of seven miles per hour, lifted from the bottom to a maximum of 30 feet, at the rate of 300 tons per hour.

As to whether this dredger is to be employed directly upon the bar, or what is known as the false channel of the Whangpoo, we are not in a position to say. But from the several reports upon the best methods of clearing the river which we have seen, most of the experts concur in advocating the "development" of the north or junk channel. The advantage of this method of procedure has been ably explained and advocated in Major Bridgford's report. In this he states: "When man attempts to meddle with nature he can only succeed in permanently modifying its aspects by studying the constant laws of its phenomena and by making his works conformable to these." And in following out this axiom Major Bridgford points out that if by any reasonable means the whole volume of the river could be diverted into one channel instead of as at present being divided by Gough's Island into two, the false bars would cease to exist. Thus the junk channel would be made the true and deep course of the river, and the ship channel would silt up entirely. To accomplish this the major points out that the first object to be attained is the enlargement of the sectional area of the most shoal portion of the junk channel, as by having an enlarged area a much greater volume of flood-tide water will be projected past Gough's Island, and so stored for supplying the ebb with increased volume. As this enlargement progresses the strength of the ebb will at first increase in the ship's channel owing to the increased volume of water received through the junk channel; and will also from the same cause (plus the enlargement of the channel) increase the ebb in the junk channel.

By this method it is shown that gradually the volume discharged by the junk channel would exceed that discharged by the ship channel to such an extent that the false bar or lip at its lower end would commence to silt up, thus increasing the choke to the ebb in that channel. The principal advantages claimed by Major Bridgford for this method of attack are summarized as follows: First, that the navigation will not be impeded during the progress of the works; second, it will give more rise of tide up the river; third, the restoring of that section of the river to one channel, navigable at all times of tide, instead of at present having two channels that are only navigable at certain times of tide.

As we have already stated, we are in ignorance as to whether the dredger which is to arrive in Shanghai within nine months from the present time will work upon the system advocated by the above report. But experts in this matter are of opinion that instead of using steam hoppers and carrying mud out to sea, it might be cheaper to discharge it on the banks where it could be utilized. This could easily be accomplished by what is known as an "overhead traveller," or if it were discovered that sand had accumulated in the bed of the channel, it could speedily be conveyed ashore by a "flume," similar to those used with such signal success in the Suez Canal. But by whatever means the new dredger is to work, we have all to be thankful that at length the barrier is to be abolished, and that at the end of the present year we can exclaim, "Away with it."

No. 73.

Mr. Holcombe to Mr. Frelinghuysen.

No. 59.] LEGATION OF THE UNITED STATES,
Peking, February 2, 1882. (Received April 15.)

SIR: Referring to my dispatch No. 54, in regard to the dredging of the Woosung bar, I have the honor to inform you that I mentioned the matter to the ministers of the foreign office to-day. They requested

me, informally, to say to the Department that the scheme as given in the newspaper extract is correct; that work is to be begun within the current year; that the water on the bar is to be deepened by about ten feet (which will give, I believe, an average depth of about 26 feet at high water), and that the entire expense is to be borne by the Chinese Government, no tax for it being laid upon the commerce of Shanghai.

I thanked the ministers for this information, and congratulated them on behalf of the Government of the United States upon their decision to undertake this much needed improvement.

I have, &c.,

CHESTER HOLCOMBE.

No. 74.

Mr. Holcombe to Mr. Frelinghuysen.

No. 66.] LEGATION OF THE UNITED STATES,
Peking, February 21, 1882.

SIR: I have the honor to forward herewith for the information of the Department a copy of an order in counsel issued by the Government of Great Britain, dated October 25, 1881, as published in China under the authority of Sir Thomas Wade, the British minister.

While there is much in this order in council which cannot fail to be of interest to the Department, I beg leave, at the moment, to call your attention to that portion of it, numbers 6 to 20, inclusive, which authorizes Her Majesty's minister in China to make regulations "for the peace, order, and good government of British subjects resident in or resorting to China."

The Department is well aware that at all of the open ports in China settlements of foreigners have grown up who are exclusively subject to the jurisdiction of their own authorities, and who directly or representatively control the immense and growing commerce between China and foreign countries. These settlements are invariably cosmopolitan in their character, containing representatives of nearly every known nationality and subjects of every type of human government. It has been manifestly necessary to devise some system under which the heterogeneous population could be governed, and due protection assured to the lives and property concerned.

This has been done by the establishment of *quasi* municipal organizations at the various ports to which have been delegated the powers ordinarily given to similar organizations at home, subject to the approval and general control of the consular and diplomatic representatives interested.

The authority thus given, and under which taxes have been levied, suitable police regulations maintained, roads and streets been built and kept in order, and the health, convenience, and good order of the settlements generally conserved, has almost invariably been exercised with great discretion and good judgment, and has rarely been called in question.

Cases have, however, arisen in which the legality of this entire system has been disputed. Notably at Shanghai in the spring of 1881, Mr. Frank Reid, an American citizen, refused to pay a tax levied by the municipal council, upon the ground that Congress alone could impose such

an obligation upon him, and that the United States minister had no power to make him in any way liable to the demands of such a body as the municipal council of Shanghai. The tax was recovered from Mr. Ried through a suit brought before our consul-general, and by an execution levied on Mr. Reid's property. I inclose a copy of Mr. Denny's decision.

Although the case ended in the manner described above, there is grave reason to fear that, could the defendant have taken an appeal to a circuit court of the United States, the decision of such higher court must have been rendered in his favor. And this in turn would have been followed by the downfall of the municipal governments at every port in China, through the refusal of the residents to pay the taxes by means of which such governments can be supported.

There is in my opinion little room to doubt that, owing to the lack of appropriate legislation, many things have in the past been done by the officers of our government here which have been really *extra legal*, so to speak, that is to say not founded on any plain well-defined statute. It is in the highest degree important that acts of this sort should cease. And it is, on the other hand, vitally important, in view of the large and rapidly increasing population and property interests in these foreign settlements in China, that ample power, clearly defined and carefully guarded, should be vested in the proper department of our government to make and enforce suitable regulations, either singly or in concert with other powers, for the control and government of American citizens resident in China.

I beg, therefore, to call your earnest attention to this subject, and to suggest, in default of a better plan, whether such Congressional action may not be secured as will give to the representative of the United States in China, subject to the approval of the President, power similar to that conferred upon the British minister in China by the order in council inclosed.

There is the more immediate occasion for the consideration of this subject, as the diplomatic body here has now under discussion a new series of municipal regulations for Shanghai which have been submitted to us by our consuls, and which it will be my duty to lay before the Department at an early moment.

I have, &c.,

CHESTER HOLCOMBE.

[Inclosure 1 in No. 66.]

APPENDIX VI.

British order in council of October 25, 1881.

At the court at Balmoral, the 25th day of October, 1881.

Present, the Queen's Most Excellent Majesty in Council.

Whereas Her Majesty the Queen has power and jurisdiction in relation to Her Majesty's subjects and others in the dominions of the Emperor of China and the dominions of the Mikado of Japan:

Now, therefore, Her Majesty, by virtue and in exercise of the powers in this behalf by the foreign jurisdiction acts, 1843 to 1878, or otherwise in her vested, is pleased, by and with the advice of her privy council, to order, and it is hereby ordered, as follows:

PRELIMINARY.

1. This order may be cited as the China and Japan order in council, 1881.
2. This order shall, except as otherwise expressed, commence to take effect from

and immediately after the thirty-first day of December, 1881, which time is in this order referred to as the commencement of this order.

3. In this order—

"China" means the dominions of the Emperor of China.

"Japan" means the dominions of the Mikado of Japan.

"Minister" means superior diplomatic representative, whether ambassador, envoy, minister plenipotentiary, or chargé d'affaires.

"Consular officer" includes every officer in Her Majesty's consular service, whether consul-general, consul, vice-consul, or consular agent, or person authorized to act in any such capacity in China or in Japan.

"British subject" means a subject of Her Majesty, whether by birth or by naturalization.

"Foreigner" means a subject of the Emperor of China, or of the Mikado of Japan, or a subject or citizen of any other state in amity with Her Majesty.

"Treaty" includes convention, and any agreement, regulations, rules, articles, tariff, or other instrument annexed to a treaty or agreed on in pursuance of any stipulation thereof.

"Month" means calendar month.

Words importing the plural of this singular may be construed as referring to one person or thing, and words importing the masculine as referring to females (as the case may require).

REPEAL.

4. Subject to the provisions of this order, Articles 85 to 91, inclusive, of the China and Japan order in council, 1865, authorizing the making of regulations for the purposes and by the authority therein mentioned, and the regulations made thereunder, dated respectively 11 July, 1866, and 16 November, 1866, relating to mortgages, bills of sale, and proceedings against partnerships or partners or agents thereof, and Rule 252 of the rules of the supreme court and other courts in China and Japan of 4 May, 1865, relating to proceedings against partnerships, and Articles 117 and 118 of the China and Japan order in council, 1865, relating to foreigners and foreign tribunals, are hereby repealed as from the commencement of this order; but this repeal does not affect any right, title, obligation, or liability acquired or accrued before the commencement of this order.

CONFIRMATION OF REGULATIONS NOT REPEALED.

5. Such regulations as are described in the schedule of this order, being regulations made or expressed or intended to be made under or in execution of the powers conferred by Articles 85 to 91 of the China and Japan order in council, 1865, and all other regulations made or expressed, or intended to be so made, and having been approved, or, in case of urgency, not disapproved, under that order, before the commencement of this order, except the regulations expressed to be repealed by this order, are hereby confirmed, as from the passing of this order, and the same, as far as they are now in force, shall be in force, and shall be deemed to have always been of the like validity and effect as if they had been originally made by order in council.

AUTHORITY FOR FURTHER REGULATIONS.

6. Her Majesty's minister in China may from time to time, subject and according to the provisions of this order, make such regulations as to him seem fit for the peace, order, and good government of British subjects resident in or resorting to China.

7. The power aforesaid extends to the making of the regulations for securing observance of the stipulations of treaties between Her Majesty, her heirs, and successors, and the Emperor of China, and for maintaining friendly relations between British subjects and Chinese subjects and authorities.

8. Her Majesty's minister in China may, as he thinks fit, make any regulations under this order extend either throughout China or to some one or more only of the consular districts in China.

9. Her Majesty's minister in China, in the exercise of the powers aforesaid, may, if he thinks fit, join with the ministers of any foreign powers in amity with Her Majesty in making or adopting regulations with like objects as the regulations described in the schedule to this order, commonly called the Shanghai Land Regulations, or any other regulations for the municipal government of any foreign concession or settlement in China; and, as regards British subjects, joint regulations so made shall be as valid and binding as if they related to British subjects only.

10. Her Majesty's minister in China may, by any regulation made under this order, repeal or alter any regulation made under the China and Japan order in council, 1865, or under any prior like authority.

11.—(*a.*) Regulations made under this order shall not have effect unless and until they are approved by Her Majesty the Queen, that approval being signified through one of Her Majesty's principal secretaries of state—save that, in case of urgency declared in any such regulations, the same shall take effect before that approval, and shall continue to have effect unless and until they are disapproved by Her Majesty the Queen, that disapproval being signified through one of Her Majesty's principal secretaries of state, and until notification of that disapproval has been received and published by Her Majesty's minister in China.

(*b.*) That approval, where given, shall be conclusive, and the validity and regularity of any regulation so approved shall not be called in question in any legal proceeding whatever.

12. Any regulations made under this order may, if Her Majesty's minister thinks fit, impose penalties for offenses against the same.

13. Penalties so imposed shall not exceed the following, namely, for any offence imprisonment for three months, with or without hard labor, and with or without a fine of $500, or a fine of $500 without imprisonment, with or without a further fine, for a continuing offence, of $25 for each day during which the offence continues after the original fine is incurred.

14. Regulations imposing penalties shall be so framed as to allow in every case of part only of the highest penalty being inflicted.

15. All regulations made under this order, whether imposing penalties or not, shall be printed, and a printed copy thereof shall be affixed, and be at all times kept exhibited conspicuously in the public office of each consulate in China.

16. Printed copies of the regulations shall be kept on sale at such reasonable price as Her Majesty's minister in China from time to time directs.

17. Where a regulation imposes a penalty, the same shall not be enforceable in any consular district until a printed copy of the regulation has been affixed in the public office of the consulate for that district, and has been kept exhibited conspicuously there during one month.

18. A charge of an offence against a regulation made under this order, imposing a penalty, shall be inquired of, heard, and determined as an ordinary criminal charge under the China and Japan order in council, 1865, except that (notwithstanding anything in that order) where the regulation is one for securing observance of the stipulations of a treaty, the charge shall be heard and determined in a summary way, and (where the proceeding is before a provincial court) without assessors.

19. A printed copy of a regulation, purporting to be made under this order, and to be certified under the hand of Her Majesty's minister in China, or under the hand and consular seal of one of Her Majesty's consular officers in China, shall be conclusive evidence of the due making of the regulation, and of its contents.

20. The foregoing provisions authorizing regulations for China are hereby extended to Japan, with the substitution of Japan for China, and of the Mikado of Japan for the Emperor of China, and of Her Majesty's minister in Japan for Her Majesty's minister in China, and of Her Majesty's consular officers in Japan, for Her Majesty's consular officers in China.

PRISON REGULATIONS.

21. The respective powers aforesaid extend to the making of regulations for the governance, visitation, care, and superintendence of prisons in China or in Japan, for the infliction of corporal or other punishment on prisoners committing offenses against the rules or discipline of a prision; but the provisions of this order respecting penalties, and respecting the printing, affixing, exhibiting, and sale of regulations, and the mode of trial of charges of offenses against regulations, do not apply to regulations respecting prisons and offences of prisoners.

MORTGAGES.

22. A deed or other instrument of mortgage, legal or equitable, of lands or houses, in China or in Japan, executed by a British subject, may be registered at any time after its execution at the consulate of the consular district wherein the property mortgaged is situate.

23. Registration is made as follows: The original and a copy of the deed or other instrument of mortgage and affidavit verifying the execution and place of execution thereof, and verifying the copy, are brought into the consulate; and the copy and affidavit are left there.

24. If a deed or other instrument of mortgage is not registered at the consulate aforesaid within the respective time following (namely):

(i.) Within fourteen days after its execution, where it is executed in the consular district wherein the property is situate:

(ii.) Within two months after execution, where it is executed in China or Japan, elsewhere than in that consular district, or in Hong-Kong:

(iii.) Within six months after its execution, where it is executed elsewhere than in China, Japan, or Hong-Kong:

then, and in every such case, the mortgage debt secured by the deed or other instrument and the interest thereon shall not have priority over judgment or simple contract debts contracted before the registration of that deed or other instrument.

25. Registered deeds or other instruments of mortgage, legal or equitable, of the same lands or houses have, as among themselves, priority in order of registration.

26.—(*a.*) The provisions of this order do not apply to a deed or other instrument of mortgage executed before the commencement of this order.

(*b.*) As regards a deed or other instrument of mortgage executed before the commencement of this order, the regulations repealed by this order shall, notwithstanding that repeal, be in force, and shall be deemed to have always been of the like validity and effect as if they had originally been made by order in council.

27. The power conferred on the chief justice of the supreme court for China and Japan by article 127 of the China and Japan order in council, 1865, of framing rules from time to time, is hereby extended to the framing of rules for prescribing and regulating the making and keeping of indexes, and of a general index, to the register of mortgages, and searches in those indexes, and other particulars connected with the making, keeping, and using of those registers and indexes, and for authorizing and regulating the unregistering of any deed or other instrument of mortgage, or the registering of any release or satisfaction in respect thereof.

BILLS OF SALE.

28. The provisions of this order relating to bills of sale—

(i.) Apply only to such bills of sale executed by British subjects as are intended to affect chattels in China or in Japan;

(ii.) Do not apply to bills of sale given by sheriffs or others under or in execution of process authorizing seizure of chattels.

29.—(*a.*) Every bill of sale must conform with the following rules (namely):

(1.) It must state truly the name, description, and address of the grantor.

(2.) It must state truly the consideration for which it is granted.

(3.) It must have annexed thereto or written thereunder an inventory of the chattels intended to be comprised therein.

(4.) Any defeasance, condition, or declaration of trust affecting the bill not contained in the body of the bill must be written on the same paper as the bill.

(5.) The execution of the bill must be attested by a credible witness, with his address and description.

(*b.*) Otherwise, the bill is void in China and in Japan to the extent following, but not further (that is to say):

(i.) In the case of failure to conform with the rule respecting an inventory, as far as regards chattels omitted from the inventory; and

(ii.) In any other case, wholly.

(*c.*) The inventory, and any defeasance, condition, or declaration as aforesaid, respectively, is for all purposes deemed part of the bill.

30. A bill of sale conforming, or appearing to conform, with the foregoing rules, may be registered, if it is intended to affect chattels in China, at the supreme court; and if it is intended to affect chattels in Japan, at the court for Japan; or in either case at the consulate of the consular district wherein the chattels are; within the respective time following, and not afterwards, namely:

(i.) Within fourteen days after its execution, where it is executed in the consular district wherein the chattels are.

(ii.) Within two months after its execution, where it is executed in China or in Japan, elsewhere than in that consular district, or in Hong-Kong.

(iii.) Within six months after its execution, where it is executed elsewhere than in China, Japan, or Hong-Kong.

31. Registration is made as follows: The original and a copy of the bill of sale and an affidavit verifying the execution, and the time and place of execution, and the attestation thereof, and verifying the copy, are brought into the proper office of the court or the consulate, and the copy and affidavit are left there.

32. If a bill of sale is not registered at a place and within the time by this order appointed and allowed for registration thereof, it is, from and after the expiration of that time, void in China or in Japan, according as that place is in China or in Japan, to the extent following, but not further—that is to say:

(i.) As against trustees or assignees of the estate of the grantor, in or under bankruptcy, liquidation, or assignment for benefit of creditors; and

(ii.) As against all sheriffs and others seizing chattels under process of any court, and any person on whose behalf the seizure is made; but only

(iii.) As regards the property in, or right to the possession of, such chattels comprised in the bill, as, at or after the filing of the petition for bankruptcy or liquidation,

or the execution of the assignment, or the seizure, are in the grantor's possession, or apparent possession.

33. Registered bills of sale affecting the same chattels have, as among themselves, priority in order of registration.

34. Chattels comprised in a registered bill of sale are not in the possession, order, or disposition of the grantor with the law of bankruptcy.

35. If in any case there is an unregistered bill of sale, and within or on the expiration of the time by this order allowed for registration thereof, a subsequent bill of sale is granted, affecting the same or some of the same chattels, for the same or part of the same debt, then the subsequent bill is, to the extent to which it comprises the same chattels and is for the same debt, absolutely void, unless the supreme court for China and Japan, or the court for Japan, as the case may require, is satisfied that the subsequent bill is granted in good faith for the purpose of correcting some material error in the prior bill, and not for the purpose of unlawfully evading the operation of this order.

36. The registration of a bill of sale must be renewed once at least every five years.

37. Renewal of registration is made as follows: An affidavit stating the date of and parties to the bill of sale, and the date of the original registration, and of the last renewal, and that the bill is still a subsisting security, is brought into the proper office of the court or consulate of the original registration, and is left there.

38. If the registration of a bill of sale is not so renewed in any period of five years, then on and from the expiration of that period the bill is deemed to be unregistered.

39. The provisions of this order relating to renewal apply to bills of sale registered under the regulations repealed by this order.

40. A transfer or assignment of a registered bill of sale need not be registered; and renewal of registration is not necessary by reason only of such a transfer or assignment.

41. Where the time for registration or renewal of registration of a bill of sale expires on a Sunday, or other day on which the office for registration is closed, the registration or renewal is valid if made on the first subsequent day on which the office is open.

42. If in any case the supreme court for China and Japan, or the court for Japan, as the case may require, is satisfied that failure to register or to renew the registration of a bill of sale in due time, or any omission or misstatement connected with registration or renewal, was accidental or inadvertent, the court may, if it thinks fit, order the failure, omission, or misstatement to be rectified in such manner and on such terms, if any, respecting security, notice by advertisement or otherwise, or any other matter, as the court thinks fit.

43.—(*a.*) The provisions of this order, except as regards renewal of registration, do not apply to a bill of sale executed before the commencement of this order.

(*b.*) As regards a bill of sale executed before the commencement of this order, the regulations repealed by this order shall, notwithstanding that repeal, be in force, and shall be deemed to have always been of the like validity and effect as if they had originally been made by order in council.

44. The power conferred on the chief justice of the supreme court for China and Japan by article 127 of the China and Japan order in council, 1865, of framing rules from time to time, is hereby extended to the framing of rules for prescribing and regulating the making and keeping of indexes, and of a general index, to the registers of bills of sale, and searches in those indexes, and other particulars connected with the making, keeping, and using of those registers and indexes, and for authorizing and regulating the unregistering of any bill of sale, or the registering of any release or satisfaction in respect thereof.

SUITS BY OR AGAINST PARTNERS.

45.—(*a.*) The following are rules of procedure of Her Majesty's courts in China and Japan, under the China and Japan order in council, 1865:

(1.) Persons claiming or being liable as partners may sue or be sued in the firm-name, if any.

(2.) Where partners sue in the firm-name they must, on demand in writing on behalf of any defendant, forthwith declare the names and addresses of the partners.

(3.) Otherwise, all proceedings in the suit may, on application, be stayed on such terms as the court thinks fit.

(4.) When the names of the partners are so declared, the suit proceeds in the same manner, and the same consequences in all respects follow, as if they had been named as the plaintiffs in the petition.

(5.) All subsequent proceedings nevertheless continue in the firm name.

(6.) Where partners are sued in the firm-name, the petition must be served either on one or more of the partners within the jurisdiction, or at the principal place of the

partnership business within the jurisdiction on some person having then and there control or management of the partnership business.

(7.) Where one person carried on business in the name of a firm apparently representing more persons than one, is sued in the firm-name, the petition may be served at the principal place of the business within the jurisdiction on some person having then and there control or management of the business.

(8.) Where partners are sued in the firm-name, they must appear individually in their own names.

(9.) All subsequent proceedings nevertheless continue in the firm-name.

(10.) Where a person carrying on business in the name of a firm apparently representing more persons than one, is sued in the firm-name he must appear in his own name.

(11.) All subsequent proceedings nevertheless continue in the firm-name.

(12.) In any case not hereinbefore provided for, where persons claiming or being liable as partners sue or are sued in the firm-name, any party to the suit may, on application to the court, obtain a statement of the names of the persons who are partners in the firm, to be furnished and verified on oath or otherwise, as the court thinks fit.

(13.) Where a judgment is against partners in the firm-name, execution may issue—

(i.) Against any property of the partners as such; and

(ii.) Against any person who has admitted in the suit that he is a partner, or who has been adjudged to be a partner; and

(iii.) Against any person who has been served in the suit as a partner, and has failed to appear.

(14.) If the party who has obtained judgment claims to be entitled to issue execution against any other person, as being a partner, he may apply to the court for leave so to do; and the court, if the liability is not disputed, may give such leave, or if it is disputed may order that the question of the liability be tried and determined as a question in the suit, in such manner as the court thinks fit.

(*b.*) The foregoing rules may be from time to time varied by rules of procedure made under the China and Japan order in council, 1865.

(*c.*) Printed copies of the foregoing rules must be exhibited conspicuously in each court and consulate in China and Japan, with the other rules of procedure for the time being in force under the China and Japan order in council, 1865, and be sold at such reasonable price as the chief justice of the supreme court from time to time directs.

(*d.*) A printed copy of the foregoing rules purporting to be certified under the hand of the chief justice of the supreme court and the seal of that court is for all purposes conclusive evidence thereof.

46—.(*a.*) The provisions of this order do not apply to proceedings instituted by or against partnership or partners or agents thereof, before the commencement of this order.

(*b.*) As regards proceedings instituted by or against partnerships or partners or agents thereof before the commencement of this order, the regulations repealed by this order shall, notwithstanding that repeal, be in force, and shall be deemed to have always been of the like validity and effect as if they had been rules of procedure made under the China and Japan order in council, 1865; and, as regards the same proceedings, the rule of procedure (252) repealed by this order shall continue to have effect, notwithstanding that repeal, subject always to the operation of the regulations repealed by this order.

SUITS BY OR AGAINST FOREIGNERS.

47.—(*a.*) Where a foreigner desires to institute or take a suit or proceeding of a civil nature against a British subject, or a British subject desires to institute or take a suit or proceeding of a civil nature against a foreigner, the supreme court for Japan, and a provincial court, according to the respective jurisdiction of the court, may entertain the suit or proceeding, and determine it; and, if all parties desire, or the court directs, a trial with a jury or assessors, then, with a jury or assessors, at a place where such a trial might be had if all parties were British subjects, but in all other respects according to the ordinary course of the court:

(*b.*) Provided, that the foreigner first obtains and files in the court the consent in writing of the competent authority of his own nation to his submitting, and that he does submit, to the jurisdiction of the court, and, if required by the court, gives security to the satisfaction of the court, and to such reasonable amount as the court directs, by deposit or otherwise, to pay fees, damages, costs, and expenses, and abide by and perform the decision to be given either by the court or on appeal.

(*c.*) A counter-claim or cross-suit cannot be brought or instituted in the court against a plaintiff, being a foreigner, who has submitted to the jurisdiction, by a defendant, except by leave of the court first obtained.

(*d.*) The court, before giving leave, requires proof from the defendant that his claim arises out of the matter in dispute, and that there is reasonable ground for it, and that it is not made for vexation or delay.

(*e.*) Nothing in this provision prevents the defendant from instituting or taking in the court against the foreigner, after the termination of the suit or proceeding in which the foreigner is plaintiff, any suit or proceeding that the defendant might have instituted or taken in the court against the foreigner if no provision restraining counter-claims or cross-suits had been inserted in this order.

(*f.*) Where a foreigner obtains in the court an order against a defendant, being a British subject, and in another suit that defendant is plaintiff and the foreigner is defendant, the court may, if it thinks fit, on the application of the British subject, stay the enforcement of the order pending that other suit, and may set off any amount ordered to be paid by one party in one suit against any amount ordered to be paid by the other party in the other suit.

(*g.*) Where a plaintiff, being a foreigner, obtains in the court an order against two or more defendants, being British subjects, jointly, and in another suit one of them is plaintiff, and the foreigner is defendant, the court may, if it thinks fit, on the application of the British subject, stay the enforcement of the order pending that other suit, and may set off any amount ordered to be paid by one party in one suit against any amount ordered to be paid by the other party in the other suit, without prejudice to the right of the British subject to require contribution from his co-defendants under the joint liability.

(*h.*) Where a foreigner is co-plaintiff in a suit with a British subject who is within the particular jurisdiction, it is not necessary for the foreigner to make deposit or give security for costs, unless the court so directs; but the co-plaintiff British subject is responsible for all fees and costs.

CHINESE, JAPANESE, OR FOREIGN TRIBUNALS.

48.—(*a.*) Where it is shown to the supreme or other court that the attendance of a British subject to give evidence, or for any other purpose connected with the administration of justice, is required in a Chinese or Japanese court, or before a Chinese or Japanese judicial officer, or in a court or before a judicial officer of any state in amity with Her Majesty, the supreme or other court may, if it thinks fit, in a case and in circumstances in which it would require his attendance before itself, order that he do attend as so required.

(*b.*) A provincial court, however, cannot so order attendance at any place beyond its particular jurisdiction.

(*c.*) If the person ordered to attend, having reasonable notice of the time and place at which he is required to attend, fails to attend accordingly, and does not excuse his failure to the satisfaction of the supreme or other court, he is, independently of any other liability, guilty of an offense against this order, and for every such offense, on conviction thereof, by summary trial, is liable to a fine not exceeding $500, or to imprisonment for not exceeding one month, in the discretion of the court.

And the right honorable the Earl Granville, one of Her Majesty's principal secretaries of state, is to give the necessary directions herein.

C. L. PEEL.

[The schedule to which the foregoing order in council refers.]

I. Regulations made by Sir Rutherford Alcock, while Her Majesty's minister in China, intituled or designated as Land Regulations, Regulations, and By-Laws annexed to the Land Regulations, for the foreign quarter of Shanghai north of the Yang-king-pang, and commonly called the Shanghai Land Regulations.

II. Port, consular, customs, and harbor regulations applicable to all the treaty ports in China, dated 31st May, 1869.

[Inclosure 2 in No. 66.]

United States court for the consular district of Shanghai.

Shanghai, May 2, 1880.

Before Judge Denny.

MUNICIPAL COUNCIL
v.
F. REID.

In this case which was heard last Saturday his honor gave judgment this morning as follows:

The municipal council for the foreign community of Shanghai north of the Yang-king-pang, by their secretary bring suit against Frank Reid, a citizen of the United States to recover 10 taels and 72 cents as taxes alleged to be due from the defendant

as a householder within the said municipality for the last quarter, 1880, for the month of March, 1881, and for all of the second quarter of this year. While the defendant denies the material allegations of the complaint, yet from the evidence adduced upon the trial it appears that these taxes were charged against him in the usual way, and in accordance with the land regulations which have hitherto governed in such cases, and that payment has been requested by plaintiffs and refused. The defendant denies that the plaintiffs are a legally constituted body, and that for this reason he should not be taxed in any way upon their order for municipal purposes or otherwise; that he is a citizen of the United States, and as such only the Congress of his government can constitutionally impose such obligations upon him.

Answering the first objection raised, the plaintiffs, by their counsel, rely for the legality of their action upon the land regulations of the settlement, submitted to the foreign ministers at Peking, and by them approved September 24, 1869, and which went into effect the beginning of the following year. The ministers of the treaty powers, approving the regulations referred to, were those of the United States of America, Great Britain, France, Russsia, and the North German Confederation. But the defendant disputes the authority of the United States minister by that act to make him in any way liable to the demands of such a body as the municipal council of Shanghai.

The United States minister to China is the superior officer of this consulate-general judicially as well as diplomatically, and whatever the result might be, if the law, bearing upon a suit of this nature was strictly construed, it is a fact of which the court must take judicial notice that the regulations alluded to were approved by the minister for the United States, acting, as he believed, within the scope of his ministerial authority, and which action has been approved by the executive department of his government. Not only this, but for eleven years the validity of these regulations has been maintained and enforced by this court. This, if there were no other reasons, would cause me to at least hesitate before reversing its decisions in this behalf in any ordinary case now. In the next place the defendant claims too much for his citizenship when he says that only the State of New York, of which he is a resident, and the United States Congress have a right to levy taxes on him; for an interpretation so broad would exempt him from all taxation wherever he may choose to go outside of the United States. Neither does the defendant make that distinction which must be made when considering the rights and duties of a citizen at home, and those rights and duties as a permanent or temporary resident of China. Within the United States he is governed by the laws of the State wherein he resides, and by the general laws of Congress. This is not the case, however, in China, for the laws of a State can have no bearing in protecting his rights here, or redressing his wrongs; while those of Congress are only special in their application. The right to live in, and pursue the various business callings in this empire is secured to citizens of the United States by treaty stipulations, and for the purpose of giving force and effect to those stipulations, Congress, by special act, has established ministerial and consular courts, with both diplomatic and judicial powers, the latter being in some respects extraordinary. Within the United States, a citizen cannot be tried for the commission of a felony unless he has first been indicted by a grand jury regularly drawn. And then he can only be tried upon such indictment by a jury of his peers, while in China he is denied both. So, in cases at law, in the United States, he is entitled to have his civil rights passed upon by a jury. This privilege he is denied here. There, he has the right of appeal. Here this right can only be claimed in certain cases. This distinction is not referred to with the view to questioning the wisdom of it, but simply to show that it does exist. Again, United States vessels visiting the different ports of China are entitled to have the services of pilots to take them safely in and out of port, but there is nothing said in the treaty as to the manner of choosing them or of what nationality they shall be. This, however, has been provided for by the Chinese authorities acting in conjunction with the representatives of the treaty powers; neither is there anything said in the treaty of the United States about a tax as a license fee for being protected in this privilege, yet such a tax is demanded by the Chinese authorities and properly collected from American citizens who are engaged in that business here. It is but a legitimate outgrowth of treaty stipulations with this government. The same may be claimed with greater force for the establishment and maintenance of the municipal government for the foreign settlement of Shanghai. The object sought by foreign governments in concluding treaties with China was to obtain commercial advantages and the importance and value of the advantages resulting therefrom which have for their center the port of Shanghai, already attest the wisdom of such agreements. So important have these interests become, that at least 2,500 foreigners of different nationalities have been drawn here to stimulate and protect them. The magnitude and nature of these interests and the number of foreigners residing here, would render it almost impossible for the residents to enjoy all of the privileges conceded to them by the treaty without the aid of a recognized municipality. For on account of the defects in the natural advantages of the port, resi-

dents occupying houses anywhere within the business portion of the settlement would continually suffer loss and great inconvenience, if these defects were not cured by local legislation; and so long as persons choose to reside within these improved boundaries and continue to enjoy the advantages resulting from a local government which seems to be so well administered as this, it is but just that they should pay an equitable proportion of the taxes for such purposes.

Judgment for plaintiffs as prayed for with costs.

O. N. DENNY,
Consul-General, Acting Judicially.

No. 75.

Mr. Holcombe to Mr. Frelinghuysen.

No. 72.] LEGATION OF THE UNITED STATES,
Peking, March 4, 1882. (Received April 29.)

SIR: I have the honor to inclose herewith, for the information of the department, a printed translation of a proclamation recently issued by a district magistrate at Soochow at the request of certain American mis, sionaries resident there. This document is interesting and valuable, since it not only shows a favorable disposition on the part of the Chinese authorities towards our people, but admits a right which has not been claimed by us under the treaties, *i. e.*, the right of missionaries to purchase and hold for the use of their work real estate at interior points in China.

When Chinese local authorities generally shall accept the liberal position taken by the district magistrate at Soochow, we shall be relieved of many delicate and complicated questions which now vex the diplomatic relations of China and the United States.

I have, &c.,

CHESTER HOLCOMBE.

[Inclosure in No. 72.—From The North China Daily News.]

Proclamation of the district magistrate at Soochow.

SOOCHOW.

Shanghai, February 27, 1882.

I inclose herewith translation of a proclamation issued by the magistrate of the Yuen Ho District, Soochow, 31st December, 1881, establishing the right of missionaries under treaty to purchase land and erect buildings in this city for the purpose of propagating the Christian religion. This is the first recognition of our treaty rights that the officials of Soochow have ever given us. You will at once recognize (1) that this indicates a very decided change in public sentiment from what existed in that city only a few years since; and (2) that under the administration of well-disposed magistrates the probabilities of conflict between the people and the missionaries are reduced to a minimum.

The Southern Methodist Mission, U. S. A., now have in Soochow property worth some $15,000, comprising—

1st. A lot, missionary's residence, and boy's boarding-school.

2d. A lot, missionary's residence, and church.

3d. A large lot for hospital, and residence of female medical missionaries, and girls' boarding-school, and residence for lady teachers.

All of this is situated on the Tien-sz-Chuang in compounds contiguous to one another and constituting a most imposing headquarters to the work of the Southern Methodist Miss on in this city. Besides the above the mission also owns a valuable property elsewhere in the city, which is to be occupied by a chapel, native parsonage, and a day-school. It is to this property the proclamation refers, and it is hoped now that the missionary occupation of this great city has been recognized and that there will not soon occur any event to mar the prospect of future good will and prosperity of the missionary work. To the respective missionaries engaged in the transaction involved in the purchase of the above land and the erection of houses thereon great credit is due for their patience and tact in accomplishing results so satisfactory.

PROCLAMATION.

This proclamation is issued at the request of C. F. Reid, an American missionary, who states that he has purchased of Messrs. Tsiang and Chang two plots of land situated on Heavenbestowed Market street and on the boundary of the Dzun San and the De San blocks. He also states that the said plots of lands were purchased with funds contributed by the church and for the purpose of erecting a church and free school-buildings. He also states that the roofs, walls, and doors of said buildings will correspond with those of native houses, and that the buildings will be so located as in nowise to interfere with the homes of the people.

But lest rowdies and unprincipled persons should interfere and hinder the work he asks that a record be made of this affair, that the higher officials be notified and that a suitable proclamation be issued in reference to it.

This office having been duly notified of the above, and whereas Tsa Voong-tsung, a native, states that the said land was purchased for the erection of said buildings for the common use and to be held as the common property of the Christian church;

And whereas Tsiang King-têh and Chang Chên-san, with their middlemen, certify that they have sold the said two plots of land of which they were in possession by inheritance, said land being in fee-simple, to the said Tsa Voong-tsung to be given to the Christian church;

And whereas said land is in a retired locality, has been unoccupied since the rebellion, and in no way interferes with the residence of the people;

And whereas the minister superintendent of trade and the higher officials, upon being notified of all the above, signified their approval of the same, all of which is a matter of record in this office:

We accordingly issue this proclamation, and hereby instruct the constables of that place, together with all the people of every class, to bear in mind that the renting or purchasing of land by foreign missionaries or the building of houses in which to preach the doctrines of Christianity, is in accordance with treaty stipulations; and henceforth should any rowdies or unprincipled persons take advantage of any cause to create disturbances in that vicinity, the constable is hereby permitted to give notice of the names of such persons to this office that they may be arrested and rigorously dealt with.

Let every one trembling heed and not disobey.

A special proclamation.

Kuang Hsü, 7th year, 11th moon, 16th day.

Soochow, China.

No. 76.

Mr. Frelinghuysen to Mr. Holcombe.

No. 160.] DEPARTMENT OF STATE,
Washington, April 21, 1882.

SIR: I transmit herewith for your information copies of a recent circular of the Treasury Department, enjoining the customs officers to enforce the provisions of Article II of the treaty of November 17, 1880, with China, relative to importations of opium by Chinese subjects.

You will communicate two copies of this circular to the foreign minister.

Acknowledging, in this relation, the receipt of your interesting dispatch, No. 57,

I am, &c.,

FRED'K T. FRELINGHUYSEN.

[Circular.]

OPIUM—IMPORTATIONS BY CHINESE SUBJECTS.

TREASURY DEPARTMENT,
Washington, D. C., April 10, 1882.

To Collectors of Customs and others:

Article 2 of the treaty with China, proclaimed October 5, 1881, provides as follows, viz:

"The Governments of China and of the United States mutually agree and undertake

that Chinese subjects shall not be permitted to import opium into any of the ports of the United States, and citizens of the United States shall not be permitted to import opium into any of the open ports of China, to transport it from one open port to any other open port, or to buy and sell opium in any of the open ports of China. This absolute prohibition, which extends to vessels owned by the citizens or subjects of either power, to foreign vessels employed by them, or to vessels owned by the citizens or subjects of either power and employed by other persons for the transportation of opium, shall be enforced by appropriate legislation on the part of China and the United States; and the benefits of the favored-nation clause in existing treaties shall not be claimed by the citizens or subjects of either power as against the provisions of this article."

The attention of collectors of customs is invited to the article, and they are hereby directed to enforce its provisions.

Opium imported into any of the ports of the United States by Chinese subjects will be seized and held for forfeiture. All parties concerned should take notice of the provisions of section 3082, Revised Statutes, to the effect that if any person shall fraudulently or knowingly import or bring into the United States, or assist in so doing, any merchandise contrary to law, or shall receive, conceal, buy, sell, or in any manner facilitate the transportation, concealment, or sale of such merchandise after importation, knowing the same to have been imported contrary to law, such merchandise shall be forfeited, and the offender shall be fined in any sum not exceeding $5,000 nor less than $50, or be imprisoned for any time not exceeding two years, or both.

In the case of such importations of opium already shipped, the Department, on special application, will decide what measures should be taken for the remission of the forfeiture incurred.

Officers of the customs will take pains to bring the provisions of this circular to the attention of Chinese subjects who have heretofore been in the habit of importing the article into the United States.

CHAS. J. FOLGER,
Secretary.

No. 77.

Mr. Holcombe to Mr. Frelinghuysen.

No. 92.] LEGATION OF THE UNITED STATES,
Peking, April 29, 1882. (Received June 16.)

SIR: Referring to my dispatch, No. 36, of December 27th ultimo, I have now the honor to furnish the Department with copies of further correspondence which has passed between Mr. von Brandt, as the representative of the diplomatic body, and the foreign office, upon the general subject of native produce bought and manufactured at the ports.

The foreign office has taken substantially the position:

1st. That foreigners have no right to engage in manufacturing operations in China; and

2d. That if they do, goods so manufactured must invariably be exported, and cannot be sold in China.

In the opinion of the entire diplomatic body, there is no treaty stipulation which can furnish a just basis for either of these assumptions.

There is no present prospect of reaching a satisfactory arrangement upon the question at issue.

I have, &c.,

CHESTER HOLCOMBE.

[Inclosure 1 in No. 92.]

Correspondence between Mr. von Brandt and Foreign Office, March, 1882.

In the interview which the undersigned, by order of the minister of the German Empire, had with the members of the Yamên, on the 22d of October, 1881 (their excellencies Wang-wên-shao, Mao Sin shu, Chung Si, and Sia chia hao being present), the Chinese ministers repeated, with as much emphasis as ever, their argument that

"foreign merchants are obliged to export all native produce they may have purchased, and that they are not at liberty to dispose of it at the open ports." Wang-wên-shao expressed this several times in these words, that "there are no native goods but must be exported," adding that the trade with native produce at the Chinese ports is a branch of commerce reserved to Chinese merchants.

In the further course of the conversation Wang-wên-shao granted that at the present moment the question was one of little moment for the Chinese Government. But if for instance, in future, cotton goods were manufactured at the ports from Chinese cotton, and if foreign merchants were permitted to sell such goods at the ports, then, the Chinese Government would lose, either the export duty on the cotton or the import duty on the goods manufactured from it. And if these manufactories were in Chinese hands, also the foreign merchants would be losers, for the foreign article would of course not be able to compete with the article manufactured in China, as the latter one had paid no import duty.

The Chinese Government desiring as little to give to the Chinese merchants an undue advantage over the foreigner as *vice versa*, had therefore already given orders that if the Chinese cotton goods manufactory in Shanghai came into existence, the articles manufactured in it should have to pay an impost, equal to the tariff import duty on foreign cotton goods.

Wang-wên-shao therefore proposed that in section III, 2 of the provisional rules no distinction should be made with reference to the period within which native produce is to be exported, between produce procured under transit pass from the interior and produce bought at the port.

Failing this, he pretended that all the concession contained in section I of the provisional rules were without value to the Yamên.

At a second interview on the 27th of December, 1881, Wang-wên-shao, in the presence, and with the consent of very nearly the same ministers who had been there on the 22d of October, said very briefly that the stand-point of the Yamên with reference to this question was still the same as heretofore. He did not even on this occasion try to veil the absolute denial implied by his words, with the usual phrases of the readiness of the Yamên to come to an understanding, and of its hope that an arrangement might easily be arrived at.

C. ARENDT.

[Inclosure.]

PEKING, *February* 6, 1882.

With reference to native produce the British minister stated to me some time ago, that when lately at the Yamên, the minister informed him, that after long discussion, the most perfect understanding had been arrived at between them and Mr. von Brandt on every point save one: namely, as to the manner of dealing with produce which having been brought down to the port uncertificated (*i. e.*, not protected by transit duty certificate) or which having been purchased in a port and having there been manufactured it was not proposed to export.

As there appeared to me some disaccord between this statement and the letters addressed to me by the Yamên, as well as the notes taken by the interpreter of the Legation of conversations at the Yamên, I sent on the 9th day of the 12th moon (January 28) Mr. Arendt to the Yamên to ascertain what it was that had been said to the British minister.

The ministers present, unfortunately, were unable to give Mr. Arendt a definite answer or to say more than that some days hence it would be in their power to let him know everything for the information of his minister. Not having heard since from the ministers, I feel obliged to request the Yamên to refer to three sets of rules forwarded from the German legation on the 12th day of the 6th moon (July 7, 1881) and to the additional proposals presented by me in person on the 15th day of the 6th moon (July 10) and to state explicitly whether it (the Yamên) is prepared to give effect to all clauses (in the project referred at) with the sole exception of the clause providing for the treatment of produce brought down from the interior uncertificated or purchased in the port and manufactured, but which it is not proposed to export; so that this would be the only one clause with reference to which the Yamên still desires a modification.

I profit, &c.,

VON BRANDT.

[Translation.]

PEKING, *February* 12, 1882.
Kuangsu, 7th year, 12th moon, 24th day.

His excellency Monsieur VON BRANDT, *Peking* (a letter):

We have had the honor to receive your excellency's letter by which you desired us to let you know whether, with regard to native produce, the question of the treatment

of articles manufactured from produce brought down uncertificated to the port, or bought at the port, but not intended for exportation, was the only one point in which we still wished for some modification, whilst all the other points had our complete approval, or otherwise.

In reply to this question we beg before all to state that, during the frequent discussions which have taken place betwen your Excellency and ourselves regarding the regulation of the commerce with native produce, we are conscious of having always been actuated in all the transactions by a sincere desire of arriving at a friendly understanding. The proposals in three sections, transmitted to us by your Excellency on the 7th of July, appeared in fact to require a separate rearrangement only with regard to those two articles which had reference to articles bought or manufactured at the port, and their exportation; all the other articles, though some slight modification might be desirable in their wording, appeared, upon the whole, quite appropriate for leading to a definite settlement of the whole matter. All at once, however, on the 10th of July, your Excellency handed again to us personally a series of additional proposals. In the first of these it was proposed that the last clause of article 3, commencing with the words: in all cases in which goods are to be confiscated, should be removed from this place, and inserted as a separate article behind section 8, whereby the number of the articles would have been augmented to ten altogether. This proposal seemed quite acceptable. But with reference to uncertificated produce, no matter whether brought down to the port from the interior or bought at the port, it had already to be considered as a concession on our part that we had agreed to allow such produce to be subjected to a manufacturing process on previous notice being given to the customs authorities, and furthermore to abstain from demanding the production of the Likin and Inland Duty certificates; but with reference to such uncertificated produce, all the rules regarding limits of time, further conveyance, repacking and export, must be adhered to in exactly the same manner as with reference to produce accompanied by a transit certificate; for this is the only way by which the vital interest of Chinese merchants can be protected. Even therefore a proposal, should such a one be made, to free such produce from the compulsion of being exported against the payment of an additional duty would not do away with the objections which prevent us from agreeing to such a concession.

Your Excellency having honored us with a question, we have deemed it our duty to reply to it clearly, distinctly, and point by point.

We seize, &c.,

Cards from all the members of the Yamên (the Prince excepted).

C. ARENDT.

Memorandum of a conversation had by Mr. Arendt with His Excellency Wang, the only minister present at the Tsungli Yamên, on February 15, 1882.

I. What do the characters tsze hsiang "this class" of uncertificated produce mean?

WANG. The words "this class" have no special meaning; they might as well be omitted; uncertificated produce, generally speaking, is meant.

I. But as you write "this class," this might seem to imply that there is also "that class."

WANG. * * * We Chinese do not make such nice distinctions. You might, I repeat it, as well omit the words "this class," without modifying the meaning.

I. Then all uncertificated produce is meant?

WANG. (Looking at the letter after a short interval.) Yes; the uncertificated produce spoken of in the preceding sentences.

I. (Looking at the letter and reading from it.) Ah! I see; the uncertificated produce which has been subjected to a manufacturing process.

WANG. That does not necessarily follow; the uncertificated produce remaining in its original state is meant as well as that which is subjected to a manufacturing process. You must not make such nice distinctions.

I. Very well; I understand now, and believe I have caught your meaning.

C. ARENDT.

The undersigned has the honor to inform His Imperial Highness the Prince Kung and their Excellencies the Ministers of the Tsungli Yamên that he has laid before his colleagues the Yamên's note dated 29th September, 1881, as well as the other communications exchanged since that date, either verbally or in writing, between the German Legation and the Yamên on the subject of native produce. He has been authorized to state by his colleagues that they cannot but regard the declarations of the Yamên as very unsatisfactory and contrary, as well to the spirit as to the text of the treaties, and that while they would be willing to discuss with the Yamên any fair proposa l

for the treatment of goods not intended for exportation, manufactured at a port from Chinese produce bought there or brought there not under transit pass, they do not feel at liberty to entertain the sweeping propositions of the Zamên, which, if accepted, would place foreign merchants in China in a worse position than Chinese merchants find themselves in any of the countries with which China entertains treaty relations.

The undersigned seizes.

PEKING, *March* 25, 1882.

The undersigned has the honor to inform His Imperial Highness the Prince Kung and their Excellencies the Ministers of the Tsungli Yamên that he has laid before his colleagues the Yamên's note dated 29th September, 1881, as well as the other communications exchanged since that date, either verbally or in writing, between the German Legation and the Yamên on the subject of native produce.

The undersigned is requested by his colleagues to remind His Imperial Highness the Prince and their Excellencies, that the nationals of Belgium, France, and Germany, and by the favored nation clause the nationals of all the treaty powers, are entitled, by the express words of the Belgian treaty of 1865, Article XI, the French treaty of 1858, Article VII, and the German treaty of 1861, Article VI, to trade as merchants, and to trade as manufacturers "se livrer au commerce ou à l'industrie." This is the indisputable meaning of the French text of the three treaties represented by the Chinese words, mau yi kung tso.

The construction which the Yamên seek to put upon the words kung tso would limit the exercise of the treaty privilege that they are intended to secure to acts which it would not have required any special treaty stipulation to enable a foreigner to perform.

The undersigned is therefore requested to invite His Imperial Highness the Prince, and their Excellencies to reconsider their opposition to the proposal to which they have objected.

A satisfactory understanding having been arrived at already on the subject of goods manufactured at the port from native produce brought there under transit pass, and not intended for exportation, the undersigned and his colleagues would be willing to discuss with the Yamên any fair proposal, for the treatment of goods not intended for exportation, manufactured at a port from Chinese produce bought there or brought there not under transit pass.

I profit, &c., &c.,

BRANDT.

No. 78.

Mr. Holcombe to Mr. Frelinghuysen.

No. 99.] LEGATION OF THE UNITED STATES,
Peking, May 6, 1882. (Received June 26.)

SIR: I have the honor to inclose herewith, for the consideration of the Department, copies of dispatches which I have received from Mr. Vice-Consul Carrow, of Canton, Consular Agent Williams, of Swatow, and Rev. W. K. McKibben, an American missionary at Swatow, all making inquiry as to the *status* under the treaties of missionaries in the interior of China, and whether any special concession not contained in the treaties had been made authorizing the permanent residence of this class of our people beyond treaty limits in China.

As this question is frequently arising, it seemed best to consider it somewhat fully. This I have done in my response to Mr. Carrow, a copy of which is inclosed. In it I have stated:

1st. The treaty rights of missionaries;

2d. The policy of the Chinese Government regarding missionary residence in the interior, so far as I understand it; and

3d. What I believe to be the position of our government upon the same question.

I shall be very glad to receive the approval of the Department for my exposition of the policy of our government upon this subject, if it appears to you to be correct.

It is proper to remark that during my ten years of connection with this Legation, there has been a very marked and noticeable change for the better in the entire attitude and policy of the Chinese Government upon the missionary question.

I have, &c.,

CHESTER HOLCOMBE.

[Inclosure 1 in No. 99.]

Mr. Carrow to Mr. Holcombe.

CANTON, *April* 6, 1882.

SIR: I have the honor to inclose you herein No. 1 from the United States consular agency at Swatow, and to ask that you will oblige me with an answer at your convenience.

I am, &c.,

F. CARROW.

[Inclosure 2 in No. 99.]

Mr. Williams to Mr. Holcombe.

SWATOW, *March* 31, 1882.

SIR: I am desirous to be informed if the Chinese Government officials have ever granted any general permission for missionaries to reside permanently in the interior outside of the treaty limits, as there are several missionaries of the various denominations now residing in various parts of the interior of the Empire. I should be much obliged if you could let me know on what conditions they are permitted to remain there; some difficulty having lately taken place with one of the American missionaries, the Rev. W. K. McKibben, at the town of Fai Poo in the interior, on account of his having rented a house at that place for six months, while traveling under the protection of a passport.

If there is any concession made to the missionaries in the northern part of China by which they are allowed to reside in the interior, I should like to secure the same privileges for the missionaries here, as it would doubtless save a great deal of trouble and correspondence with the local officials.

I am, &c.,

C. C. WILLIAMS.

[Inclosure 3 in No. 99.]

Mr. McKibben to Mr. Holcombe.

SWATOW, *April* 6, 1882.

SIR: Our consul, Mr. Williams, is writing to you to ascertain on my behalf what is the *status* under the treaty of American missionaries in the interior of China.

The various treaties clearly recognize and provide for the right of missionaries to trade freely in pursuit of their calling. Nothing is said, so far as I have seen, as to where they may stop, whether in boats or at inns, or in other houses; nor for how long a time they may stay at a place. I suppose, however, the general permission to travel and preach is intended to include such requisites of the missionary's calling as the privilege of renting houses for chapels and for temporary residence as may be necessary.

It is of importance to me to ascertain somewhat more definitely what privileges are recognized as being within, the general scope of treaty provisions. I have frequently seen in the periodicals notices of missionaries having purchased or rented ground and houses at interior places, as at Soochow, Nanking, Kalgan, Tsi Nanfoo, Teun Haw Chau. I have seen the statement made that missionaries may *rent* "t'ung" or chapels, but not purchase them, at interior places. In connection with the case at Teun Haw Chau, between Peking and Tientsin, the statement is made that "the right (missionary) of residence in the interior is officially conceded in the very highest (Chinese) quarters." (See "Chinese Recorder" for November, December, 1880, p. 476.)

Whether or not there are restrictions or limitations upon missionaries who wish to avail themselves of this recognized treaty privilege—for instance, as to the length of time he may stay at a place, or as to special passport regulations—I have never heard authoritatively; and I trust that your reply to Consul Williams's letter may inform me in regard to any usages or regulations to which I will need to conform.

I should have mentioned in my account of the difficulty at Fai Poo Hien that the district magistrate to whom I appealed in vain for protection, told me that I had no rights in the city except it were for a few days' residence; and that my having taken lodgings at the inn for a period of six months was more than I had any right to do.

I need hardly say that I am not seeking for privileges *outside* the treaties, as perhaps some of the consular representatives of this Province understand; but for a recognition of privileges *under* the treaties.

I am, &c.,

W. K. McKIBBEN.

[Inclosure 4 in No. 99.]

Mr. McKibben to Mr. Holcombe.

SWATOW, *April* 13, 1882.

SIR: Remembering the kind interest you expressed two years ago in my unsuccessful attempt to obtain a building site at Chow Chow Fu, I recently addressed you a note, through Mr. Williams, asking for information in regard to the *status* of American missionaries in the interior of China. This note made inquiry to the following effect, viz: The various treaties provide that missionaries may travel freely in pursuit of their calling; but they say nothing about where or for how long a time they may stop; what, if any, are the usages or restrictions to which the missionary should conform?

The special occasion for my raising the inquiry is that in November of last year I was mobbed at my inn and driven out of the city of Fai Poo Hien by a mob, led by runners from the Yamên, and apparently with the connivance of the district magistrate. The town of which I speak is about 120 li from Swatow. I reached the place October 26, and put up at the house of a church member. Shortly after I rented some upper rooms of an inn that adjoined. I called a man to patch the floor, and did a little whitewashing, all in the inside, and made no further changes. About November 9 I heard that some of the people were threatening that I should not be allowed to stay. Both in writing and in person I requested the magistrate to take some measures to prevent a disturbance. He promised, but did nothing, and on the 13th he left the city. The next morning a crowd of several hundred men came, who broke up the church member's shop, destroyed a part of the inn building, and destroyed or carried off a quantity of property. While this was going on I escaped by a back door and made my way to the river, pursued by a part of the mob, who pelted me with stones, sticks of wood &c. A heavy umbrella protected me from injury, and I obtained refuge on a revenue boat.

Arriving at Swatow I laid the case before Consul Williams, who has spared no pains to get some of the ringleaders brought to punishment and to secure compensation for damages sustained by the property. The usual Chinese shifts and evasions have been resorted to by the officials, and no very tangible satisfaction has yet been secured. Mr. Williams is exerting himself to the utmost to secure such a measure of satisfaction as will make it safer for missionaries to visit that region hereafter, and which will practically serve the purpose of giving some measure of security to the native Christians of that region. He may find it necessary to refer the case to the higher authorities before it is settled.

But a question arises with regard to privileges of missionaries traveling or sojourning in the interior. And it was to ascertain with some degree of definiteness what is recognized as coming within the scope of the treaties that I wrote you through the consular agent.

Two years ago I sustained a serious defeat in having my plans thwarted at Chow Chow Fu. It is of great importance to me at this time to be able to avail myself of whatever measure of support a fair interpretation of the treaty may afford. Whatever information or suggestions you may be able to give will be gratefully appreciated.

I am, &c.,

W. K. McKIBBEN.

[Inclosure 5 in No. 99.]

Mr. Holcombe to Mr. Carrow.

MAY 6, 1882.

SIR: I have had the honor to receive your dispatch of the 6th ultimo, covering a letter from Mr. Consular Agent Williams, in which inquiry is made of me whether any concession has been granted by the officials of the Chinese Government, by virtue of which missionaries are allowed to reside permanently in the interior, that is to say, outside of the treaty limits at the several open ports.

In reply I have to say that under the terms of our treaties with China, all citizens of the United States are placed upon a footing of equality.

No formal concession of any special privileges to missionaries as such has been made by the Government of China, nor, so far as I understand the policy of the United States, is it prepared to assert any peculiar rights for missionaries which may not, under an honest interpretation of our rights as laid down in the treaties, be demanded for merchants or any other class of citizens.

Under these conventions citizens of the United States are permitted—

1st. To reside and pursue their various avocations at the ports in China which are open to foreign trade.

2d. To travel under passport to all parts of the interior; and they are guaranteed—

3d. Protection to their persons and property and immunity from insults and injuries everywhere in China.

4th. Exemption from all disabilities or persecutions in teaching or professing the Christian faith.

The right to travel under passport in the interior carries with it, by fair and indeed necessary inference, the privilege of *temporary* residence there, but would not justify any assertion of the right to rent or purchase premises for permanent occupation.

The "toleration article" may be justly construed as promising the protection of the Chinese Government to chapels and similar places of public worship owned or used by native Christians in all parts of the Empire.

The foregoing statement covers, in my opinion, all the rights conceded by treaty to missionaries in China, and as already indicated no other concessions to them have been formally made by the Imperial Government.

It is true, on the other hand, as Mr. Williams remarks, that "there are several missionaries of the different denominations now residing in various parts of the interior," and he very naturally asks, "on what conditions they are permitted to remain there?"

Protestant and Romish missionaries are to be found to-day quietly established as permanent residents in very considerable numbers in every province of China. There are fifty-two Protestant missionaries in this province alone, outside of the treaty port of Tientsin, forty-three of whom are Americans. And proclamations have in many instances been issued by the local Chinese authorities declaring the full right of the missionary thus to establish himself and to acquire property in the interior, and warning the populace not to oppose or disturb him in any way. This very marked and valuable advance beyond the strict line of privileges granted by treaty has been gained, not by any formal concession on the part of the Chinese Government, but by the discreet and patient effort of individual missionaries on the one hand and by the liberal and tolerant disposition of the local authorities, influenced more or less by the good will of the people, on the other.

Only in very rare cases has there arisen any trouble in connection with these establishments, and in no instance within my knowledge has it been maintained by the local authorities that the missionaries concerned were seeking that which the treaties did not warrant.

The policy of the central Government of China in regard to missionary residence in the interior, though never formally enunciated, seems to be, so far as it can be gathered as the result of the discussion of cases which have arisen from time to time, to make no opposition to such residence, to tacitly concede it provided no objection is urged by the authorities of the locality concerned, no disturbance arises, and our people are able to establish themselves and their work quietly. Should the issue be squarely raised by the local authorities of any city or district, that certain missionaries, in seeking to gain a residence among them, were going beyond their rights as laid down in the treaties, it is in my mind more than doubtful whether the foreign office here would consent to make that issue with the foreign government concerned. They would, however, if I am to judge of the future by the past, doubtless raise imaginary difficulties in the given case, and while carefully avoiding the question of the right of residence in the interior, would give practical support to the opposition raised by their local officers.

The policy of our own government in the question under discussion is plain and well defined. While it does not claim for any class of its people the right to reside permanently beyond the limits of the open ports, it appreciates the self-denial and philanthropic motives of the missionary, and is disposed rather to congratulate than to censure him if, by wise and patient effort to conciliate the good will of the natives, he is able quietly to extend his operations beyond treaty limits, and to develop his benevolent work in the heart of this vast Empire. It certainly does not enter into the wish or purpose of the Government or of this Legation to repress or hamper the wider action upon which American missionaries have entered, to advise any retreat from the advanced ground which has been taken with the tacit consent of the Imperial Government, or to fail in taking rightful measures for their protection whenever it may become necessary. On the contrary the Government of the United States will be found ready to give such moral support and encouragement and practical protection to its

missionary citizens, either at the ports or in the interior, as their valuable work may justly deserve, and a sound policy and their manifest rights under the treaties may demand.

It may be a legitimate question for discussion, whether the Chinese Government by this tacit acquiescence in the process which has been going on for more that twenty years, and which has resulted in the permanent establishment of missionaries in considerable numbers in every province, may or may not be held to have positively conceded the right of such residence. Prescription and precedent reckon for more in China than in western nations, and may establish "quasi" rights, which, while not conferred by the letter of treaty, are nevertheless entitled to official recognition.

Be this as it may, our treaties with this Empire specifically guarantee to all citizens of the United States in every part of China entire immunity from every species of insult or injury whether to persons or property. Nothing can be more explicit than the language of Article XI of the treaty of Tientsin upon this point. Our people are entitled to, and must receive the full benefit of this stipulation wherever they may be in China. For any supposed or actual breach or excess of treaty rights they may be proceeded against by clearly defined methods before the duly authorized officers of our government. But under no circumstances will the Government of the United States allow its citizens, whether residing within or without the so-called treaty limits, to be subjected to mob violence, to be violently expelled from this or that district by illegal means, or to have their lives or property jeopardized in any manner except by due process of law.

I am, &c.,

CHESTER HOLCOMBE.

No. 79.

Mr. Holcombe to Mr. Frelinghuysen.

[Extract.]

No. 101.] LEGATION OF THE UNITED STATES,
Pekin, May 9, 1882. (Received June 29.)

SIR: I have the honor to inclose herewith for the information of the Department a newspaper extract relating to a military force recently dispatched by the French Government to Tonquin.

* * * * * * *

I have, &c.,

CHESTER HOLCOMBE.

[Inclosure in No. 101.—Extract from the North China Daily News.]

THE FRENCH IN TONQUIN.

After many and prolonged delays, the French Government have at length dispatched an expedition to Tonquin. What that force is intended to accomplish, or what the ultimate aim of the French authorities may be, has not been officially disclosed. What is actually known is that there are now about a thousand French troops in Haiphong and Hanoi, and that they await further orders. The Saigon paper L'Indo-Chine Française does not hesitate to say that the annexation of Tonquin is the ultimate object of the French Government. This is what we have always believed and what we have consistently advocated. Tonquin is now subject to Annamese misrule and oppression, and the people would gladly change masters; the revolution could be accomplished by merely driving out the Annamese officials, who have no considerable force to back up their pretensions and are utterly incapable of opposing any effective resistance to French usurpation. So far, though the French have landed several hundred troops in the capital of Tonquin, not a blow has been struck. The Annamese apparently hardly know what to expect. They must be aware, however, that the French have come to insist upon the provisions of the treaty of 1874 being faithfully carried out, and that their visitors are prepared to back up their demand with force if necessary. The French have obviously decided that the trade route to Yunnan by the Song Hoi, or Red River, shall be opened up. This is an important stipulation of the treaty of 1874 which has been coolly and uniformly ignored by the Annamese mandarins, who doubtless see in it a blow to the exercise of their nefarious

system of squeezing the poor natives on whom they fatten and thrive. The obstacles to the free navigation of the Song-Hoi will first be removed, and, meanwhile, the French troops will probably occupy the chief towns of Tonquin, quietly displacing the Annamese garrisons and substituting French authority and rule for that of the Annamese mandarins. It is not unlikely that this will be accomplished without any effusion of blood, for the Annamese are not a fighting race and have already had experience of French prowess. Should they, however, offer resistance, the task of the French may be somewhat protracted but cannot be defeated, while the conflict might eventuate in the tricolor being hoisted at Hué and the Emperor Tu Duc losing his throne. Our Saigon contemporary makes no secret of its aspiration for the extension of French supremacy over the whole of Cochin China and Cambodia, and though it is very doubtful whether the present French Government have such ambitious designs, they might, if involved in a troublesome struggle with Annam, be tempted to give it a final issue by subjugating the entire country. We are, however, of opinion that no such scheme is now entertained, and that the French Government are chiefly concerned to give due effect to the stipulations of the treaty of 1874; these once definitely secured, the annexation of Tonquin may be deferred to a more convenient season, and the fall of the Annamese monarchy be postponed indefinitely.—(China Overland Trade Report.)

No. 80.

Mr. Frelinghuysen to Mr. Young.

No. 17.] DEPARTMENT OF STATE,
Washington, July 3, 1882.

SIR: Mr. Holcombe's dispatch of the 6th of May last, in relation to the residence of American missionaries in the interior of China, has been received. His exposition of the rights of citizens of the United States in China in the note which he addressed to Mr. Carrow, on that date, is regarded as a very clear and discreet statement of what may properly be claimed under the stipulations of existing treaties for our citizens, residents in China, whether engaged in the calling of missionaries or in any other pursuit, and meets with the unqualified approval of the department.

I am, &c.,

FRED'K T. FRELINGHUYSEN.

COLOMBIA.

No. 81.

Mr. Scruggs to Mr. Frelinghuysen.

No. 2.] HONDA, UNITED STATES OF COLOMBIA,
July 5, 1882. (Received August 9.)

SIR: In making the voyage from the United States to Colombia we must embark at New York, either for Aspinwall or Sabanilla; for between our southern ports and those of Colombia there is no direct line of communication, nor is there any direct line between the ports of Cuba and those of Colombia. Between New York and Sabanilla there is now, however, a direct line of ocean steamers, owned by an American company; but, under our present navigation laws, these steamers can neither obtain an American register nor sail under the American flag.

By embarking on a steamer of this new line—the North and South

American Steam Navigation Company—we should reach Cartajena or Sabanilla within eight days, making one call at the Bahamas.

Cartajena, as you are aware, is one of the oldest of the Spanish American seaports. In the time of Philip the Second it was one of the strongest naval stations in the world. Its fortifications, still in fair condition, seem to have been constructed without regard to expense, and for all time. The massive walls of the city are still, to all appearances, impregnable, and the ancient subterranean passes leading outward to the foot-hills of the adjacent mountains are still visible. The entrance to the magnificent harbor is studded with ancient fortifications, which, though now unused for more than half a century, seem almost as good as new. Formally, the city was connected by ship channel with the river Magdalena, at a point many leagues above the delta, and was, therefore, in easy communication with the fertile valleys and plateaux of the interior; the gate of commerce in time of peace, and secure alike from protracted siege or successful assault in time of war.

The decline of Cartajena seems to have commenced with the present century, and to have steadily continued to within the past fifteen years, when the commerce of the country began to revive. In the mean time the ship canal, connecting the port with the great fluvial highway of the interior, having fallen into disuse, became filled up and overgrown with tropical jungle; so that the few foreign trading vessels visiting the coast sought harborage farther up, within easy distance of the river, near the present site of Sabanilla. Meantime, the short railway of 14 miles, which connects this new harbor of Sabanilla with the river at Barranquilla, had been projected and built by a German company; and thus, through the apparent apathy of its property owners, Cartajena found itself supplanted by Barranquilla—a new city of some 25,000 inhabitants, the outgrowth of steam navigation on the Magdalena. But the harbor of Sabanilla, though now the principal one of the republic, is neither convenient nor safe. It is shallow, full of shifting sand-bars, and exposed to furious wind-storms; while the new port of Barranquilla is quite inaccessible from the delta, by reason of its treacherous sand-bars. So that, with the opening of the ancient dique or ship channel between Cartajena and Calamar, or the construction of a railway between the first named point and Barranquilla (both of which enterprises are being agitated), Cartajena will regain her ancient prestige and become the chief port of the republic.

The great valley of the Magdalena, extending from the Caribbean coast to the equatorial line, is one of inexhaustible natural resources. Its width varies from 100 to 150 miles before gradually sloping to a point on the northern borders of Equador. At the mouth of the river Cauca this valley branches off into another of less general width but of greater elevation, and consequently possessing a more equable and temperate climate. The river Cauca is itself navigable by light-draught steamers as far up as Cali, a point less than 80 miles from the port of Buenaventura, on the Pacific coast.

The lower valley of the Magdalena is one vast alluvial plain, a large portion of which is subject to periodical overflow. In fact, during the rainy season, the greater portion of it is usually under water. This, however, might be prevented, and the fertile lands reclaimed, by a system of dikes far less expensive than those on the lower Mississippi. But in a country like this, where population is sparse, and nature lavish in her bounties, such enterprises are not readily undertaken.

As we ascend the river to a point some 250 miles above Barranquilla, the banks become higher and better defined. Here inundations are

infrequent, and the soil incredibly fertile. In the days of the Spanish viceroyalty this was the garden of New Granada, and traces of the magnificent estates of the old hidalgos are still visible. But these rich plantations seem to have been abandoned when emancipation of negro slavery was proclaimed in 1824; and few of them have since been reclaimed. They are now mere grazing grounds for immense herds of ungroomed and almost unattended cattle, and many of them are completely overgrown by thick, impenetrable jungle and forest. The negro and his descendants, who now inhabit this once prosperous region, lives an idle, shiftless sort of life, subsisting upon the indigenous fruits and fish. Agriculture receives very little attention, and cattle-breeding is the chief industry, even among the more ambitious and enterprising of the inhabitants. Within the past few years, however, there has been a very marked improvement. A number of small villages and trading stations have sprung up all along the margins of the river, where small merchants have established a kind of barter trade, and ship fruits, cattle, hides, eggs, poultry and palm nuts to the coast, receiving in return small supplies of foreign goods, such as cotton cloth, cheap jewelry and other small articles of American, English or German manufacture. But the chief commerce of the river is the carrying trade between Barranquilla and Honda; the last named place being the great inter-depot for the shipment of coffee, indigo, tobacco, quina bark, hides, minerals, and other exports of the interior table lands of the Andes. This trade now employs over twenty river steamers, besides a number of *bungoes* which constantly ply between the two points named.

The river itself is one of the physical curiosities of this region. With its source a little southward of the equatorial line, it flows in general direction due northward with a current of greater average rapidity than the Mississippi, and carries an average volume of water nearly as great. Its waters, always muddy, are often so charged with sand and sediment that a tinkling metallic sound is distinctly audible from the upper deck of the steamer. In many places it is full of counter-currents and whirlpools, not unlike those seen in the great Yangtze in eastern Asia, uprooting trees and cutting away the loaming banks, filling in new islands and carrying away old ones, and thus constantly changing its main channel. In some places its waters are expanded over an immense plain to the width of from two to five miles; in others they are forced into a narrow channel between the extending foot-hills of the adjacent mountains where the rapidity of the current renders its ascent by steamers difficult and dangerous. Thus, from Nare to Honda, a distance of some two hundred miles, it is little else than a mere succession of whirlpools and cataracts; and the motive power of the steamers being necessarily out of all proportion to their tonnage, accidents and wrecks are not unusual. No wonder that, on a river like this, freights are incredibly high and the rates of insurance beyond precedent.

The entire distance from Barranquilla to Honda, following the tortuous course of the river, is 780 miles, and the voyage usually requires from ten to twenty days, according to the state of the water. In making it we pass through three distinct grades or belts of country, distinct alike as to soil, topography, climate, scenery, and the general appearance and character of the inhabitants. The first 200 miles is, as I have said, little else than an expanse of swamp, overgrown by reeds and rushes alternated by occasional spots of dry land, inhabited only by negroes and mulattoes. The next 300 miles is likewise a vast plain on either side, but seldom subject to overflow; the site of abandoned plantations alternated by dense forest and occasional patches of maize and banana.

The mango and the plantain are indigenous, and the bread-fruit and calabash tree are often seen. The remainder of the journey is through the volcanic region, where the fertility of the soil, salubrity of the climate, and majesty and grandeur of the scenery combine to make a most desirable country, but which has been heretofore carefully avoided by the industrious emigrant for the sole reason, perhaps, that its government has been too unsettled or unstable to insure protection to the rights of person and property.

The inhabitants of this volcanic region differ as widely from those of the coast and lower valley as the two regions of country differ in general aspect; and this difference is equally well defined whether we regard their peculiarities of dialect, their personal appearance, or their daily habits of thought and life. The Indian and his descendants, who constitute the basis of population in the upper valley, are deferential and often courteous in manner and language; while the negro and his descendants, who constitute the basis of the population in the lower valley, are usually irreverent, aggressive, quarrelsome, and shamelessly immoral. The uplander speaks the Castilian with tolerable accuracy and purity, while the lowlander employs a kind of jargon which is often unintelligible even to his own countrymen of the table lands. The Indian seldom drinks anything stronger than a decoction of molasses and maize, called *chiche*, which, although very stupefying, is never intoxicating, while the mulatto drinks a vile species of native brandy, called *aguardiente*, which is very fiery and intoxicating. Both peoples are very superstitious, but in opposite directions. The highlander believes in modern miracles, spiritual epiphanies, and angelic guidance and visitations, and is governed almost entirely by a deep religious sentiment, directed by the Roman Church. The lowerlander believes in charms, incantations, and witchcraft, but pays little or no attention to the church or its requirements. The first seems to delight in rendering a kind and hospitable service without expecting anything in return; the second never thinks of doing a kind or benevolent act or of rendering a polite service, without pay. The one is reticent and dignified, often evasive and untruthful, but never uncivil or inhospitable; the other is garrulous, profane, and often uncivil, ready to assert his fancied "equality" upon all possible occasions, quick to quarrel, and difficult to appease when excited or angry. The Indian is naturally docile, obedient to authority, and conservative in his habits of thought and life. The mulatto, on the other hand, is a constitutional pessimist, and is ready for a "revolution" upon short notice and upon the slightest pretext.

I have, &c.,

WILLIAM L. SCRUGGS.

No. 82.

Mr. Scruggs to Mr. Frelinghuysen.

No. 3.] ON THE PLAINS OF BOGOTÀ, U. S. C.,
July 7, 1882. (Received August 28.)

SIR: From Honda, the head of steam navigation on the Magdalena, to Bogotá, the capital of the Colombian Republic, the journey must be made on mule-back. The distance is less than 70 miles, although it usually requires from three to four days to complete it. However, within the last few years a line of coaches has been established between the federal

capital and Agrialarge, a stopping place some 30 miles distant from Bogotá; so that the journey by mule-back has been reduced to about 40 miles.

After perfecting all necessary arrangements the day previous, the traveler rises at six, takes a light breakfast of chocolate and bread, and hopes to be on the way by seven. But people here take life easily. Servants and guides and muleteers make no note of time, and it is quite useless to try to hurry them, so that if he gets fairly under way by ten o'clock he is fortunate. As he ascends a spur of the eastern Cordillera there is revealed to him a most enchanting view of the surrounding country; the atmosphere is singularly clear, pure, and exhilarating, and he breathes more deeply and easily; the senses are no longer oppressed by the sultry heats and intoxicating perfumes of the valley; the limbs recover their wonted elasticity, and the mind seems more clear and active.

Just beyond the deep, broad valley of the Magdalena, are the snow-capped mountains of Tolima. They seem marvelously near, and yet they are more than 100 miles distant; so very clear and transparent is the pure ethereal atmosphere of this elevated region. In the opposite direction is the dish-shaped valley of Guaduas, fringed with luxuriant foliage of the coffee plantations and the virgin forests of emerald green. In the center of this valley reposes the parochial village, with its church steeples reaching upward as if in feeble imitation of the adjacent mountain peaks. This valley of Guaduas is over 3,000 feet above the sea level, and has, therefore, an equable and temperate climate. But the atmosphere is quite damp, and rheumatism, diptheria, and goitre are among the prevalent maladies of the place. The population of the village is about 20,000, the basis of which is the Chibcha Indian, the race which inhabited this country at the time of the conquest by Quesada, in 1537. But here, as elsewhere in the Andes, the Indian has lost his race identity by amalgamation with the Castilian, and a Chibcha of pure blood is seldom seen except in the more remote rural districts. The negro and his descendants are seldom seen here. They seem to thrive best in the hot, malarious region of the coast and on the margins of the great rivers.

The next village of importance is Villete. It has a population of about 2,000, mostly Indians and mixed-breeds. Its elevation is only about 600 feet above the sea level, and has an average temperature of about 85°. Though quite hot, the atmosphere is singularly dry and sanitary, and the place is often resorted to by invalids from Bogotá and the more elevated regions.

The valley is watered by the Rio Negro; justly so named, for its waters are as black as ink, so rendered by their passage through the coal and mineral deposits along the foot-hills of the Sierra. Near by are a noted sulphur spring and the extinct volcano which Humboldt describes as likely, one day, to break out afresh and destroy this beautiful valley.

Up to this point our journey has been alternating between deep valleys and dizzy mountain peaks. We cross one only to encounter another. Such is the *Camino Real* or "Royal Highway," the only available route between the Colombian capital and the outside world. Within the past few years it has been much improved, it is true, and at great expense to the government; but it is still little else than a mere mule trail, not wide enough in many places for two mules to walk abreast, and so tortuous and precipitous as to be impassable except on the backs of animals trained to the road. When we reflect that this is the overland highway of an immense commerce, and that it has been in constant use since

the Spanish conquest, we naturally marvel that it is no better. It seems to have been constructed without any previous survey whatever, and without the least regard for comfort or convenience, making short curves where curves are quite unnecessary, or going straight over some mountain spur or peak when the ascent might have been rendered less difficult by easy curves. But, to the observant traveler, the inconveniences and hardships of the journey are, in some measure, compensated by the varied and captivating scenery. He passes through a variety of climates within a few hours' ride. At one time he is ascending a dizzy steep by a sort of rustic stairway hewn into the rock-ribbed mountain, where the air reminds him of a chilly November morning; a few hours later he is descending to the region of the plantain and the banana, where the summer never ends, and the rank crops of fruits and flowers chase each other in unbroken circle from January to December. On the bleak crests of the *paramos* he encounters neither tree nor shrub; where a few blades of sedge and the flitting of a few sparrows give the only evidences of vegetable or animal life; while in the deep valley just below, the dense groves of palm and cottonwood are alive with birds of rich and varied plumage, and the air seems loaded with floral perfumes until the senses fairly ache with their sweetness.

Agrialarge is, as I have said, the last stopping place before exchanging the saddle mule for the coach. It is a little settlement of a few hundred inhabitants, situated on the eastern crest of the Cordillera which surrounds the vast altiplane of Bogotá. We here dismiss our faithful mule, and take coach or omnibus for the cities of the plain. The transition from the intense midsummer heats of Villete, to the bleak Novemberblasts of Agrialarge, has been a journey of but a few hours. Our ears and finger-tips ache with cold, and a strange numbness is felt in every limb. But the descent to the edge of the plain is rapid, and within thirty minutes we are greeted by the clear, bright rays of perpetual spring. The ripening wheat fields, fringed by primroses and perennial flowers, alternated by green pastures filled with sleek herds of sheep and cattle, afford a landscape worthy of the artist's pencil or the poet's enthusiasm.

This plain is the traditional elysium of the ancient Chibchas, and their imperial capital was near the site of the present capital of Colombia; and perhaps around no one spot on the American continent cluster so many legends of the aborigines, or quite so many improbable stories illustrative of the ancient civilization. Here one can almost imagine himself in the north temperate zone, and in a country inhabited by a race wholly different from the people heretofore seen in the republic. Agriculture and the useful arts seem at least a century ahead of those on the coast and in the torrid valleys of the great rivers. The ox-cart and plantation wagon have supplanted the traditional pack-mule and ground sled. The neat iron spade and patent plow, have taken the place of wooden shovels and clumsy forked sticks. The inclosures are of substantial stone or adobe; and the spacious farm-house or *quinta* has an air of palatial elegance compared with the mud and bamboo hut of the Magdalena. The people have a clear, ruddy complexion, at least compared with those heretofore seen in the country; and their dialect is a near approach to the rich and sonorous Castilian, once so liquid and harmonious in poetry and song, so majestic and persuasive on the forum. None of these agricultural implements, and none of these commodious coaches and omnibuses were manufactured here, nor elsewhere in Colombia. They have all been imported from the United States or England. They were brought to Honda, packed in small sections, by the river steamers, and thence lugged over the mountains, piece by piece.

One peon will carry a wheel, another an axle, a third a coupling pole or single-tree, and the screws and bolts are packed in small boxes on cargo mules. The upper part or "body" of the vehicle is likewise taken to pieces and packed in sections. One man will sometimes be a month in carrying a wagon wheel from Honda to the plain. His method is to carry it some 50 or 100 paces and then rest, making sometimes less than 2 miles a day. When the vehicle finally reaches the plain, the pieces are collected and put together by some smithy, who may have learned the art from an American or English mechanic. One scarcely knows which ought to be the greater marvel, the failure to manufacture all these things in a country where woods and coal and iron are so abundant, or the obstacles that are overcome in their successful and profitable importation from foreign countries.

I have, &c.,

WILLIAM L. SCRUGGS.

FRANCE.

No. 83.

Mr. Morton to Mr. Frelinghuysen.

[Extract.]

No. 107.] LEGATION OF THE UNITED STATES,
Paris, January 20, 1882. (Received February 3.)

SIR: I have the honor to inclose herewith a copy and translation of a bill, in relation to American salted meats, which was introduced in the Chamber on the 14th instant by Mr. Faure, deputy and under secretary of commerce.

This bill repeals the decree prohibiting the importation of American pork, and provides for its introduction into France upon certain restrictions, which will, I believe, practically result in its free admission.

The minister in presenting this bill explained the reasons which dictated its action.

At the time the decree was issued, anxiety and alarm existed; microscopic examination could not be resorted to, and prohibition under the circumstances was necessary. But since that time nearly all the chambers of commerce of France have protested against the measure, and the government has been led to question seriously the propriety of maintaining it.

A careful examination elicited the fact that from 1878 to 1880, 95,000,000 kilograms of American pork were consumed in France without danger, and that Belgium, where the consumption is about six times as large as in France, and England, where it is eight times as large, did not suffer at all from trichinosis.

It was found besides that the cooking of the meat afforded an additional protection against trichinosis to the one already secured by its process of curing.

Upon the evidence of these facts the committee of public hygiene rescinded its former advice, and declared that in its opinion prohibition was unnecessary, provided the meat introduced into France was well cured. The government therefore proposes the free admission of American pork upon the conditions stated in the bill.

It has taken nearly two years to establish the fact that the remon-

strances which our government made from the beginning to this unjustifiable measure, and which have been constantly pressed upon the French authorities by my predecessor and myself, were just and well founded in every respect.

I regret that the bill proposed still maintains the prohibition of sausages and hashed meat, the reasons for which I do not understand.

But as the bill is, if its provisions are applied in a liberal spirit, as I believe they will be, our packers will have no reason to complain.

* * * * * * *

I have, &c.,

L. P. MORTON.

[Inclosure in No. 107.—Translation.]

Bill on importation of American pork.

The minister of commerce presented yesterday, in the name of the government, the bill relating to the withdrawal of the decree prohibiting the importation into France of American pork.

This is the text of the document:

ARTICLE 1. The decree of February 18, 1881, prohibiting the importation into France of salt meats of American production is annulled.

ART. 2. Salted pork of foreign production, accompanied by a certificate testifying that the meat has undergone a perfect preparation, and that it corresponds with the type known in commerce under the name of "fully cured," can be imported into France.

These certificates will be made out in the places of their origin with promptitude, and at the cost of the parties interested, by local experts, whose qualifications will be attested, and the signature authenticated by the consular agents of the republic.

ART. 3. At the moment of the payment of custom-house dues in France, the importers must prove that the meats which they propose to hand over for consumption are healthy, that they are in a perfect state of preservation, and that the salting is not defective.

This authentication will be made at the expense of the importers by inspectors appointed by the prefects of the frontier departments.

ART. 4. The present arrangements are not applicable to meats hashed and uncooked, such as different kinds of sausage ("saucisses, saucissons, cervelas," &c.), nor to guts ("boyaux") intended for culinary preparations, the importation of which into France is absolutely prohibited.

ART. 5. Will be punished by imprisonment of from two to six months, and by a fine of from 100 to 500 francs—

1. Those who will have brought into France uncooked and hashed pork, such as the various kinds of sausage ("saucisses, saucissons, cervelas," &c.), or guts ("boyaux") intended for culinary preparations.

2. Those who have imported into France pork of foreign production which has not been subjected to the inspection imposed by the present law, or which would have been refused after examination.

In the two above-mentioned cases the imported meats will be in addition seized or destroyed.

The article 463 of the penal code is applicable in the cases provided for in the present article (5th).

No. 84.

Mr. Davis to Mr. Morton.

No. 96.] DEPARTMENT OF STATE,
Washington, February 10, 1882.

SIR: I am gratified to learn from your dispatch No. 107, of the 20th ultimo, that it is very probable that the objectionable decree of the French Government against American pork will soon be repealed.

Thanking you for your full and interesting report on the subject,

I am, &c.,

J. C. BANCROFT DAVIS,
Acting Secretary.

No. 85.

Mr. Morton to Mr. Frelinghuysen.

[Extract.]

No. 130.] LEGATION OF THE UNITED STATES,
Paris, February 28, 1882. (Received March 19.)

SIR: I have the honor to acknowledge the receipt of your dispatch No. 96, of date February 10, conveying the gratification of the Department for the information that the decree of the French Government prohibiting the importation of American pork would probably soon be repealed.

With the defeat of the Gambetta cabinet, which was pledged to the withdrawal of the decree, * * I regret to say that the prospects of an equitable and liberal settlement of this long-pending question are not now as favorable as heretofore.

The bill, which was drawn up by the late minister of commerce, of which I gave you the substance in my No. 107, is still before the Chamber, and will not, I think, be withdrawn. But it is somewhat doubtful whether the committee to which it was referred will now report it favorably.

I must state that the renewal of the objection made to the importation of American pork is not to be attributed solely to the hostile influence of * * those who have adverse private interests in the matter, but mainly to the publication in some American papers of supposed fatal cases of trichinosis. These reports, which have been circulated, unfortunately, by the American Correspondence, a New York Franco-American weekly sheet, printed partly in French, are copied by the French papers, and its paragraphs upon American trichinosis have received a rather wide circulation. I inclose herewith, for your information, two of these paragraphs, which appeared in the correspondence of January 28 and February 11.

Many people have called at the legation to ascertain if there was any foundation for these reports. I have not hesitated to declare that, in my opinion, they were spurious, and that there was nothing like an epidemic of trichinosis existing in the United States. It might, however, be useful if I could speak with official authority from the State Department in the matter.

I have, &c.,

L. P. MORTON.

[Inclosure in No. 130.—Extract from the American Correspondence, January 28, 1882.]

TRICHINOSIS IN THE UNITED STATES.—EXPERT INSPECTORS OUT OF THE QUESTION LEGALLY.

Like all Americans, we regret that the Chamber of Deputies did not instruct the government to allow salt provisions from the United States to be admitted without restrictions, as we were in hopes that they would, and so expressed ourselves in our last number.

We are confident, at any rate, that the French legislators will continue to overlook the publication, in papers opposed to free importation, of numerous cases of trichinosis, more in fact than have really occurred. Reliance can be placed upon our statement that there were only six cases last week, of which four were fatal, and but two this week, which shows conclusively that trichinosis is a scarecrow, which has been made too much of.

We also expressed the apprehension that the Chamber of Deputies at Paris would take offense at being placed by the government on the same level with American cor-

porations, or even with the petty legislatures of separate States, with which it is proposed to treat (and not with the American Congress) for licensing as experts those persons in America whose duty it will be to issue certificates of the wholesomeness of such provisions as they may agree to admit into France.

But it would appear, unfortunately, that such appointments as experts are contrary to the laws of the United States, as we are informed by a friend and correspondent, who is a well-known jurist and was, at one time, a United States judge:

"I call your attention to the text of the law as proposed, which will require the exporter to produce an inspection certificate from this side to identify the soundness of the provisions. It will be exceedingly difficult, if not impossible, to comply with such a requirement, for the simple reason that in this State and in Pennsylvania, if not in all the other States of the Union, there are no authorized legal inspectors.

"It is a matter of history that the inspection laws, formerly existing in this country, requiring the inspection of exports and brands of the board, on casks, barrels, or packages, hurt the sale of the article in the foreign market.

"It is unnecessary to detail the reason, but the abuse was so flagrant that in New York the constitution of the State forbids forever the appointment of inspectors or boards of inspection; and so it is in Pennsylvania.

"Whence is the exporter to obtain the inspection certificates demanded by the French law? In this country the purchaser must look out for himself. He has no other protection than the punishment of the person who knowingly sells putrid or unwholesome food.

"It is otherwise in France and other foreign countries, whose governments deem it their duty to add to the common law requirements and *a priori* evidence that the article offered is sound.

"It is supposed that perhaps an inspection in the interior, or the place of manufacture, say at Cincinnati or at Chicago, &c., by private parties would be sufficient.

"This is a delusive idea. The French bill requires the inspection by a competent, impartial, and disinterested expert authorized by the local government; but, whilst there may be voluntary inspectors, they are not the class to which France looks for the protection of the lives and health of its inhabitants.

"In the next place, neither of these centers is the point of export. The shipment to France is made here in vessels loading at this port, but pending the transit from the interior to the shipboard, on which the package will leave this country, there are so many opportunities of fraudulent marks, substitution of packages, and other tricks of trade that the original certificate, if in all respects correct, would not be proof of the indentity of the article finally consigned to Havre. Nor will the French consular certificate of authenticity of signature, &c., be of any avail. The French market still regrets with sorrow the certificate of authenticity of the signature to a document, pretending to emanate from authority, that Frémont's notorious Memphis and El Paso Railroad was a duly recognized and saleable stock at the regular New York Stock Exchange—a paper by which millions of French money were gathered for an unsafe and judicially fraudulent stock.

"The only remedy for the free export of meat and provisions from here to France is the absolute and unconditional repeal of the existing ordinance. The Chamber will not permit a change which can easily be evaded by illegitimate means. Will it permit a trade in natural course? This is the question."

As we go to press we find the following dispatch published in all the New York papers to-day (January 27), with displayed headings:

FIFTEEN PERSONS POISONED—TRICHINOSIS CAUSED BY EATING RAW HAM—THREE FATAL CASES.

MARSHALL, MINN., *January* 26.

Great excitement has been caused here by trichinæ poisoning from eating raw ham. Fifteen prominent citizens are afflicted, and three have died. An entire family, consisting of Mr. and Mrs.——— ———, &c., &c.

Names and details are given, all which seems flatly to contradict those sanguine persons who, like ourselves persistently maintain that the French Government ought to withdraw the prohibitive decree. It shows, at any rate, that the cases of trichinosis mentioned by us in our last number were not at all exaggerated. We say again that these are special and particular cases, and that they prove nothing in a general way. It should be noted that in the above instance those who died had eaten raw ham.

In France it is *always eaten cooked.* Hence there is no cause for alarm. No uneasiness need be felt either about the lard in cans, prepared or purchased in quantities by leading speculators, such as Messrs. Armour, Fowler, &c., which they introduce in a roundabout way into France, where it is consumed without apprehension or suspicion of its American origin.

[Extract from the American Correspondence of February 11, 1882.]

SPECULATION AND TRICHINOSIS.

The movement to bring about a withdrawal of the decrees prohibiting the importation of American provisions into Europe, and particularly into France, continues to be carried on under unfavorable circumstances. As the American Correspondence has been predicting for a year past, the results have hitherto been negative. Matters are even worse at present, because speculation has thrust itself so deeply into this question, which Mr. Levi P. Morton, the American minister, is trying so strenuously to settle, because he knows what privations the laboring classes in Europe and what losses the American cattle-raisers are suffering, by reason of the prohibitive decrees. But the large speculators do not care much for that. Operators for a rise have published in certain papers that the decree had been abrogated in France by the Chamber, simply because a bill has been introduced by the government, which will soon be buried out of sight, if people believe in France the exaggerated accounts of trichinosis published in certain other papers, under sensational headings, like the following:

THE POISONED FAMILY—THE AGONY ENDURED BY THE JAEGERS AT FORT WAYNE, IND.

[Official dispatch to the Evening Telegram.]

FORT WAYNE, *February* 9.

The News says, with reference to the Jaeger family, five in number, who are suffering from trichinæ poisoning:

"They suffer intensely. No immediate danger is anticipated, but their ultimate recovery is doubtful. The girl, aged fifteen, and her sister, aged five, are in a very bad condition. No hopes are entertained of their recovery. The balance may survive. The oldest child was working in the country and came home to wait on the family, and ate once of the diseased meat. She has a very mild form of trichinosis."

It will be observed that this does not refer to the same case as that of which we deemed it our duty to publish the true particulars, because they had been too much magnified by some papers. These exaggerations originate with the bear speculators, who are well aware that if they should only hear in France of any new cases of trichinosis in this country, they would never venture to withdraw the prohibitive decrees. For this reason we desire to caution the French public and government once more not to attach any credit to exaggerated accounts like the above.

No. 86.

Mr. Morton to Mr. Frelinghuysen.

No. 138.] LEGATION OF THE UNITED STATES,
Paris, March 17, 1882. (Received March 30.)

SIR: I have the honor to inform you that the committee to which the bill providing for the free introduction into France of foreign pork had been referred, has made a favorable report, and that the question will come up in the Chamber on the 23d instant. All indications now point to the passage of the bill.

The Academy of Medicine, to which the government had submitted the matter, has pronounced itself against the measures resorted to or contemplated for obstructing the importation of pork. I annex herewith a copy of the report of the academy, which has been kindly furnished by Dr. Wm. E. Johnston.

The Academy of Medicine of France is an official body, authorized to answer the questions on sanitary measures propounded to it by the government, and its decisions, when uttered in a clear and decided manner, as in the present case, have great influence with the executive and legislative departments of the government.

I have, &c.,

L. P. MORTON.

[Inclosure in No. 138.]

Dr. Johnston to Mr. Morton.

PARIS, *March* 16, 1882.

DEAR SIR: I have the honor and the pleasure to inform you that after a full discussion of the question of trichinæ in connection with American pork at the National Academy of Medicine of Paris, a discussion which ran through several sittings, that body has come to a decision which fully justifies the views your legation has maintained on this question.

The Academy of Medicine of France is an official body authorized to answer in an official manner the questions on sanitary measures propounded to it by the government; and its decisions, when uttered in a clear and decided manner, as in the present case, always meet with the deference on the part of the government to which they are entitled.

I subjoin the declaration voted by the academy.

I have, &c.,

W. E. JOHNSTON, *M. D.*

Report at the National Academy of Medicine of France on the question, propounded by the government, of the necessity of an inspection of foreign pork.

[Read by Dr. Bouley, professor at Alfort, reporter of the special committee, February 28, 1882.]

The academy taking into consideration:

1st. That for a great many years American and German pork has been freely admitted into France, without having been submitted to any kind of inspection as regards trichinæ;

2d. That notwithstanding the very extended use which has been made of this kind of meat, especially in the army and the large manufacturing and industrial districts, the disease called trichinosis, with the exception of a single case, which was produced by indigenous pork, has not been observed in any part of France, although at the same time the attention of physicians has been frequently called to that disease in Germany;

3d. That this immunity enjoyed by the people of France in regard to trichinosis is due without any doubt to their culinary habits, pork being never eaten in France without having been submitted to such a temperature in cooking as is incompatible with the life of trichinæ;

4th. That an efficacious microscopic inspection would be with difficulty applied to the enormous mass of ninety millions of pounds of pork, which is the annual amount of importation, and that, in any case, the inspection would not prove to be a certain guarantee of the innocuity of the pork as regards trichinæ, since the irregularity of the dissemination of trichinæ does not permit the conclusion that because they do not exist in one part they may not exist in another, is of the opinion that it is not necessary to submit imported pork to a microscopic inspection, in order to prevent trichinosic infection, the culinary habits of the people of France being such as to demonstrate thus far that the precautions used in cooking are sufficient to preserve them from the infection; and that it suffices to put them on their guard against the possible dangers of the use of raw or incompletely cooked pork, to point out to them by a special printed instruction these dangers, and to distribute these instructions through the aid of the government agents to every part of France.

A minority report on an unimportant point was read by a member of the committee, and was rejected by the academy.

No. 87.

Mr. Morton to Mr. Frelinghuysen.

No. 146.] LEGATION OF THE UNITED STATES,
Paris, March 31, 1882. (Received April 13.)

SIR: I had the honor to inform you on the 28th and 29th instant by cable that the pork bill had passed the Chamber with an amendment aiming at the re-establishment of microscopic examination. I transmit herewith copies of my telegrams and a translation of the text of the bill as it passed the Chamber.

The amendment introduced by the opponents of the free admission into France of our pork is contained in the three last paragraphs of article 2. It does not provide in terms for microscopic examination, but the debates show that it is intended to secure that result. The minister of commerce, Mr. Tirard, who agreed to it, and has secured its passage, is well-known to be in favor of this mode of inspection, and to hold that it is the only one by which any effective guarantee can be given. In a conversation which I had with him the day before the debate he expressed this opinion, and remarked that there was a strong prejudice in France against American pork; that it would find no sale, although it might be perfectly sound, unless some kind of inspection was required which would satisfy the public. He discussed the question in a friendly manner, and intimated that the inspection, if required by the new law, could be made easy, and would become more and more so, if all meats were found to be in a sound condition.

Mr. Archard, of Bordeaux, the chairman of the committee who reported the bill during the debate read your telegram, copy of which I had furnished him, denying the existence of trichinosis in the United States, and made an able argument in favor of his bill, claiming that the prohibition was unjustifiable, that our pork was perfectly healthy, and that, even should it be unhealthy, no inspection or examination of such quantities could be in any way effective. His speech is too long to be translated, but by referring to the Journal Officiel of the 28th and 29th, which goes regularly to the Department, you will find it in full, with the whole proceedings.

It is believed that the Senate will pass the bill without change.

I have, &c.,

LEVI P. MORTON.

[Inclosure in No. 146.]

Translation of a bill passed by the Chamber.

ARTICLE 1. Salted pork meats of foreign production, which correspond to the type known in commerce under the name of "fully cured," can be imported into France through places on the frontier of land and sea which will be designated by decree.

ART. 2. At the moment of landing the importers must prove that the meats which they intend to hand over for consumption correspond to the aforesaid type; that they are wholesome; that they are in a perfect state of preservation; and that the salting of them is complete. This authentication will be executed by special experts.

These experts will be appointed by the minister of commerce, who will possess the right to direct such manner of examination as will appear to him necessary.

The cost of the service of inspection will be paid by the importers under conditions to be established by rules of the public administration.

The custom-house service will only allow the removal of the meats on the certificates of these experts establishing that they consider the condition required in the first paragraph of the present article.

ART. 3. The present arrangements are not applicable to uncooked chopped meats, such as small and large sausages, Bologna sausage, &c., nor to guts intended for culinary preparations, the introduction of which into France is absolutely prohibited.

ART. 4. Will be punished by imprisonment of from two to six months, and by a fine of from 100 to 500 francs—

(1) Those who have introduced into France uncooked chopped pork, such as large and small sausages, Bologna sausage, &c., or guts intended for culinary preparations.

(2) Those who have introduced or attempted to introduce into France, without submitting them to the verification prescribed by the present law, of pork of foreign production.

In the two above-mentioned cases, the imported meats will be, moreover, seized and destroyed.

Article 463 of the Penal Code is applicable in the cases foreseen in the present article.

ART. 5. The decree of February 18, 1881, which prohibits the importation into France of salted pork of American origin is repealed.

No. 88.

Mr. Morton to Mr. Frelinghuysen.

[Extract.]

No. 191.] LEGATION OF THE UNITED STATES,
Paris, June 27, 1882. (Received July 13.)

SIR: I regret to have to inform the Department that the pork bill, of which a copy was sent with my dispatch No. 146, of March 31, 1882, was defeated in the Senate a few days ago.

This result was quite unexpected. The bill had the unequivocal support of the government, and of the senate committee, to which it had been referred. The chairman of this committee, Senator Wurtz, the eminent chemist, and dean of the Academy of Medicine, reported the bill in the strongest language possible, showing, by conclusive proofs and arguments, that the trichinæ, wherever it existed, could not resist the double process of salting and cooking, and that, with a proper inspection, the introduction into France of our fully cured pork could not be attended with any danger or inconvenience. Mr. Tirard, the minister of commerce, advocated the passage of the bill on the same ground. The opposition, which came mainly from the hog-raising departments, contended that if there were no danger in allowing the free introduction of American meats into France, the government could remove the decree of prohibition without any law, and succeeded in defeating the bill by a majority of four votes.

* * * * * * *

I have, &c.,

LEVI P. MORTON.

No. 89.

Mr. Frelinghuysen to Mr. Morton.

No. 152.] DEPARTMENT OF STATE,
Washington, July 28, 1882.

SIR: The Department learned with regret, from your dispatch No. 191 of the 27th ultimo, that the pork bill had been defeated in the French Senate. Approving of your action in having an interview on the subject with Mr. Tirard, the minister of commerce, I need hardly add an expression of my desire that you shall omit no proper opportunity to urge upon the French Government the withdrawal of the objectional decree with reference to American pork.

I am, &c.,

FRED'K. T. FRELINGHUYSEN.

No. 90.

Mr. Brulatour to Mr. Frelinghuysen.

No. 209.] LEGATION OF THE UNITED STATES,
Paris, August 10, 1882. (Received August 23.)

SIR: I have the honor of informing you that the persistent efforts of this legation in view of obtaining from the French Government the right

for American corporations doing business in France to be considered and treated on the same footing as those of other countries have at last resulted in a measure giving us this long desired satisfaction. A decree dated the 6th instant and issued the 9th, a copy and translation of which are herewith inclosed, grants to American corporations and companies the privileges of legal status in France which had already been extended to nearly all the countries of Europe.

You will notice that this privilege is only granted to such of the American corporations "which have sought and obtained in the United States the authorization of the government."

It is hoped that this restriction will only be nominal; it is rendered necessary by the law under which the decree is issued, and is attached to all similar grants. But as the French courts have decided that foreign corporations established by authority of the laws of their respective countries, and which have complied with the conditions imposed upon them by said laws, are to be considered as having obtained the authorization of their government, the American corporations have all reason to expect that their legal status will be hereafter fully recognized in France.

It gives me pleasure to add that the advantage just now secured to American interests is entirely due to Mr. Morton. It is through his personal relations with the cabinet officers and other legal functionaries who have had the matter in charge that we have succeeded in obtaining aresult which this legation has for many years endeavored to accomplish.

I have, &c.,

E. J. BRULATOUR.

[Inclosure in No. 209.—Translation.]

The President of the French Republic upon the report of the minister of commerce.

Whereas the law of May 30, 1857, is as follows:

ARTICLE 1. The anonymous corporations and other associations, commercial, industrial, and financial, which have sought and obtained the authorization of the Belgian Government, may exercise all their rights and have legal standing in the courts of France, upon conforming with the laws of the Empire.

ART. 2. A decree rendered by the council of state can apply to all other countries the benefits contained in article 1:

Upon seeing the request of the minister of the United States at Paris;

Upon seeing the letters of the minister of foreign affairs under dates of August 5, 1880, February 3 and December 30, 1881, January 13 and 27, and June 5, 1882;

The council of state being heard, it is decreed:

ARTICLE 1. The anonymous corporations and the other associations, commercial, industrial, and financial, which have sought and obtained in the United States of America the authorization of the government, may exercise all their rights and have legal standing in the courts in France upon conformity to the laws of the Republic.

ART. 2. The minister of commerce is charged with the execution of the present decree, which will be inserted in the Bulletin des lois, and published in the Journal Officiel of the French Republic.

Done at Paris, August 6, 1882.

By the President of the Republic:

JULES GRÉVY.

By the minister of commerce:

P. TIRARD.

GERMANY.

No. 91.

Mr. Davis to Mr. Everett.

No. 301.] DEPARTMENT OF STATE,
Washington, February 8, 1882.

SIR: I inclose herewith for your information a copy of a letter from Messrs. William Archdeacon & Co., of Indianapolis, Ind., stating that they have been advised that the German authorities have prohibited the importation of one hundred barrels of pigs' tongues shipped by them to Altona, Germany, and also that a general prohibition has been issued by the Government of Germany against American pork.

I will thank you to lose no time in calling the attention of the German foreign office to the case of William Archdeacon & Co., with a view to securing for them such relief as the facts may be found to make necessary.

I have furthermore to instruct you to report to this Department at your earliest convenience all the information you may be able to obtain as to any recent action by the German Government in reference to the importation of American pork into Germany; and all the facts which may tend to throw any light upon the subject.

I am, &c.,

J. C. BANCROFT DAVIS,
Acting Secretary.

[Inclosure in No. 301.]

Messrs. William Archdeacon & Co. to Mr. Frelinghuysen.

INDIANAPOLIS, *February* 5, 1882.

DEAR SIR: We received an order early in December from Altona, Germany, for 100 barrels of pigs' tongues, and shipped same early in January. We are now in receipt of a letter from the bank in Hamburg saying "that American pork has been prohibited in Germany," and our goods will not be allowed to land there.

The shippers and shipping agents from whom we have sought information deny that such is the case, and our goods in the mean time lie there.

If you can give us any information on the subject you will confer a favor on

Yours respectfully,

WM. ARCHDEACON & CO.

No. 92.

Mr. Everett to Mr. Frelinghuysen.

No. 298.] LEGATION OF THE UNITED STATES,
Berlin, February 23, 1882. (Received March 18.)

SIR: I have the honor to acknowledge your instruction No. 301, of the 8th instant, received this day, inclosing a complaint of Messrs. William Archdeacon & Co., to the Department of State, that the importation of American pork had been prohibited in Germany, and that they are thus prevented from bringing into Germany 100 barrels of pigs' tongues which they have shipped to Altona, and directing me to call the attention of the foreign office to the matter.

In reply I have the honor to state that this prohibition of the importa-

tion of pork is not new, but dates back to June, 1880. On the 29th June, 1880, Mr. White informed the Department by telegram, as also in dispatch No. 136, of the prohibition by imperial eecree of the 25th of June, 1880, of the admission of all kinds of pork except hams and sides of bacon, and inclosing a copy with translation of the decree. Mr. White at the same time stated that in an interview with Mr. Von Hoffman he had ascertained that the reason of the prohibition was that trichinæ could not be easily detected except in these two forms of pork.

From the special mention of hams and bacon in the decree, I have no doubt that tongues are included in the category of forbidden forms of pigs' flesh, but I will, in accordance with your instruction, address the foreign office on the subject, and ascertain whether there is any special exemption for pigs' tongues, and in case there is not, whether it would be possible to pass this one shipment of Messrs. Archdeacon & Co., after a rigid inspection to insure the pigs' tongues being in a fit condition for food.

1 would also state in this connection that in December, 1880, Messrs. Armor & Co., of Chicago, the largest pork packers in the world, addressed a similar complaint to this legation that they were debarred by the abovementioned decree from exporting their canned brawn to Germany, and they claimed that this particular preparation of pork was safe from the danger of trichinæ as it had been subjected to a temperature of 250° Fahrenheit, a certificate of which could be sent with each shipment. They were advised, in reply, to lay their case before the Department of State, which would then instruct the legation to intervene in the matter if it should be thought best. I trust that I shall not be exceeding my instructions if I include Messrs. Armor & Co.'s grievances with those of Messrs. Archdeacon & Co. in my note to the foreign office.

I have, &c.,

H. SIDNEY EVERETT.

No. 93.

Mr. Everett to Mr. Frelinghuysen.

No. 308.] LEGATION OF THE UNITED STATES,
Berlin, March 27, 1882. (Received April 12.)

SIR: Referring to your instruction No. 301 of the 8th ultimo, and my reply to the same of the 23d ultimo, I have the honor now to inclose the correspondence between this legation and the foreign office on the subject of the importation of pork products, by which it will be seen that the German Government refuses to modify its prohibitive decree of the 25th June, 1880, so as to allow the consignment of pigs' tongues from William Archdeacon & Co. and the brawn of Messrs. Armor & Co., of Chicago, to enter Germany.

I have, &c.,

H. SIDNEY EVERETT.

[Inclosure 1 in No. 308.]

Mr. Everett to Count Hatzfeldt.

LEGATION OF THE UNITED STATES,
Berlin, February 25, 1882.

The undersigned, chargé d'affaires *ad interim* of the United States of America, has the honor, by direction of his government, to call the attention of his excellency

Count Hatzfeldt, provisional secretary of state for foreign affairs, to the subject of customs duties on articles of food from the United States coming into Germany.

The undersigned would respectfully represent to his excellency that the American Government is informed by the reports of its consuls as well as by the complaints of individual exporters, that articles of food, such as beef in cans, hams in cloth covers, and salt fish in wooden boxes, are not allowed by Germany to pay duties, as in other countries, under the class of imports to which they belong, but are taxed by weight under the class of material of which the boxes in which they are packed are made. For instance, canned beef, instead of paying a duty of 12 marks per 100 R—according to No. 25 *g*, 1, of the official tariff of July 15, 1879, is taxed at 24 marks per 100 R—as ironware under No. 6, *e*, 3, B, because it is packed in tinned iron cans, and iron bears a higher rate of duty than beef. Likewise dried salt fish, instead of coming in as fish, because it is packed in wooden boxes like Swedish matches, pays as *wood*, a much higher duty. It further appears that if the cans have no labels, the lower duty on beef is charged.

The undersigned, after a careful study of the tariff laws, fails to understand such an interpretation of them by the officers of customs, especially, as by a treasury order of the 23d January, 1882, Mr. Krüger, a collector at Altona, is informed that the nature of the covering is not to affect the duty rate of goods. Notwithstanding this order, the legation is informed that at Hamburg, American beef is still taxed as ironware because the iron cans are packed, simply for the purpose of transportation, in large wooden cases. It is surely superfluous, however, to remark that the beef is the only really dutiable article in this instance, as it is shipped as beef in invoices and bills of lading, and sold as beef both wholesale and retail, sometimes even without the cans, by the slice.

The undersigned trusts that the imperial finance ministry will, when their attention is called to it, see the injustice of taxing these nourishing and cheap articles of food under the class of material which does not in any way enter into their composition, and only serves to protect them during transportation, just as the ship protects them on the sea, or the railway wagon on land.

It would also appear to be an error to tax them, as so much *weight* of iron or wood, as the principal weight is not in the iron cases, but in the beef. Therefore, if the iron and wood must be taxed, it would seem to be more correct to tax them by their own weight separate from the beef or fish, and in addition to the tax on the beef or fish taken by themselves, which latter could even be increased if necessary.

The undersigned, in the hope that his excellency will give this matter his early attention, and endeavor to meet the apparently reasonable complaint of the importers, avails himself of this occasion to renew to his excellency the assurances of his most distinguished consideration.

H. SIDNEY EVERETT.

[Inclosure 2 in No. 308.—Translation.]

Dr. Busch to Mr. Everett.

FOREIGN OFFICE,
Berlin, March 22, 1882.

The undersigned has the honor to inform Mr. H. Sidney Everett, charge d'affaires of the United States of America, in reply to the esteemed note of the 24th ultimo, concerning a consignment of American pork which has been detained at Altona, that the prohibition of June 25, 1880, is still in force and is especially applicable to prepared pigs' tongues.

After a careful examination, in the proper quarter, of the facts in the case, it has not been considered feasible to make an exception to the existing prohibition in favor of the large consignment of pigs' tongues and the preparation known as "brawn" referred to in the esteemed note.

The undersigned avails, &c.,

BUSCH.

No. 94.

Mr. Sargent to Mr. Frelinghuysen.

No. 19.] LEGATION OF THE UNITED STATES,
Berlin, June 3d, 1882. (Received June 21.)

SIR: It is a fact worthy of note that there is at present an entire accord between the various European powers upon a somewhat annoying phase of the troublesome and often recurring Eastern question.

Even the cabinets of Berlin and Paris seem to be in harmony upon the principles to be applied to the settlement of the difficulty between the Khedive and the rebellious Egyptian troops and agitators. While M. de Freycinet declares in the Chamber of Deputies, that France will act in accord with the remainder of Europe upon this question, and "accept the responsibilities, decisions, and means of action of the European concert," it is stated on apparently good authority that Prince Bismarck is favorably impressed with these declarations, and confirmed in his desire to give his moral support to the present French Government, and save it from troubles likely to bring about its fall, which would return Gambetta to power, whose name is correctly or otherwise synonymous with a policy of restlessness and adventure.

But the action of Germany in this crisis seems to be rather one of observation and caution, than of direction. England and France are cautiously taking joint measures to influence the Porte and control the situation in Egypt. But as far as I can observe, Germany has not given anything more than an implied assent to the measures in question. I am inclined to believe that this arises more from a desire to avoid the expenses of naval and military movements than from a diverse view of the situation, but partly from a wish to avoid a concurrent military movement with France.

It may apparently be safely asserted that there is everything in the attitude of the European powers towards each other, and in their respective interests, to guarantee that no disagreement will arise over this new development of the Eastern question to lead to any war among themselves or either of them.

The German press seem to recognize in the utterances of the French executive a peaceful policy at the expense of French traditions concerning Egypt. The Kreuz Zeitung seems surprised at the unusual self-control of the French, far greater than they are usually credited as having, and says:

> The policy of M. de Freycinet is sensible, and takes account of existing circumstances, but it is certainly not French. The traditional policy of France in Egypt has just received a harder blow than has for a long time been inflicted anywhere on national prestige. There is no doubt that at the present time Turkey is, more than the Western powers, the protector of Egypt, while the lowest authority in that regard is that of France.

While these views are tinged with prejudice toward France, and do not do justice to its attitude in this affair, they imply at least German satisfaction with the situation. The National Zeitung speaks of Mr. de Freycinet's declarations as proving—

> The predominance of peaceful ideas in France, and the powerlessness of the foes of peace in Europe, whose avowed and restless chief is Mr. Gambetta, as now appears more clearly than ever.

It thinks France will be safer with European concurrence than in isolation with England, in that bitter quarrels would probably arise between France and England over Egyptian matters if they should attempt to jointly effect the necessary settlement there.

If there is a slight tone of jealous distrust of France, mingled with that of approbation, in these utterances, perhaps it is that Germany will not forget that, in the language of Von Moltke, it must be prepared for fifty years to defend its acquisitions in the Franco-Prussian war, and cannot be wholly cordial to a possibly prospective foe.

But it seems probable, in view of all the surroundings, that even if warlike movements occur in Egypt, or a conflict there, to put down the soldiery which imperil the lives of the Khedive and European residents,

and to terminate the existence of the military party headed by Arabi, that such events will not change the peaceful situation in Europe. On the surface, at least, there is promise here of continued peace.

I have, &c.,

A. A. SARGENT.

No. 95.

Mr. Sargent to Mr. Frelinghuysen.

[Extract.]

No. 28.] LEGATION OF THE UNITED STATES,
Berlin, June 19, 1882. (Received July 5.)

SIR: I have the honor to report that the Reichstag will to-day terminate its labors for the present, and will, with the concurrence of the government, adjourn until the 31st of November next this extra session, the second of the fifth legislative period. The season was so far advanced that it seemed quite improbable that the parliamentary work on hand could be disposed of without adjournment; so long an adjournment is unprecedented, the adjournment heretofore having been ordinary parliamentary ones, not exceeding thirty days; but the present course was adopted to save and utilize the laborious and important work already accomplished in the various committees, which it would have been necessary to begin afresh at a new session had the present one been formally closed.

The Reichstag was convened in extra session by the Emperor for the 27th of April last. In a speech delivered at that session (a copy and translation of which were at the time furnished to the Department by this legation) the same measures were submitted for consideration that had been recommended from the throne at the opening (on November 17 last) of the previous session. That previous session had proven barren of positive results. The part of the session which has closed to-day has accomplished little more in the direction desired by the government.

* * * * * * *

The principal government measures undisposed of, and remaining in the hands of the various committees for consideration and action at the next meeting of the Reichstag, are a measure proposed for the insurance of workingmen against accidents on the basis of a corporation and co-operative organization of the various industries, this measure having been intended to take the place of the "government insurance bill" (heretofore transmitted to the department with a translation), which was withdrawn on account of the violent opposition it provoked in parliamentary debates last winter. Again, a measure for "health insurance," with compulsory participation of the industrial classes against the results of illness; and, finally, a measure revising the trade laws. Upon the fate of the bills above referred to I may have the honor to report hereafter.

The grand measure submitted for legislative action by the government, a measure which the prince chancellor has pronounced to be the corner-stone of his "tax reform policy," and his "final ideal," was the "tobacco monopoly bill," which has just met with a final and overwhelming defeat; the vote standing 276 to 43, twelve members not voting.

After having been rejected by the advisory body, the "economic council" (described in Mr. White's dispatch, No. 188), by the body of scientists and experts but recently instituted to pass upon the propriety

and expediency, from a scientific point of view, of submitting for legislative action a contemplated measure, it had also been emphatically rejected by committee of the Reichstag, to whom it had been referred, to be finally defeated in its second reading in the Reichstag itself, in the conclusive manner above stated.

As announced at the opening of the Reichstag, this bill was designed to make possible an end much needed, viz, a tax reform that should enable the Imperial Government to dispense with the matricular contributions of the individual confederated states constituting the Empire, thus putting it in the power of those states to relieve their respective parishes, and other communal associations, from what is denounced as burdensome and unequal *direct* taxation.

In this connection it may be remarked that the Prussion legislature rejected, at its recent session, a bill disposing of the savings to accrue as Prussia's share of the benefits to be derived from the proposed "tax reform," on the ground, probably, that it would be safer to await the reform.

The "tobacco monopoly" is deemed by the government the one object of indirect taxation which will yield a sufficiency for the purpose in view. If the government estimates be reliable, a very rich harvest is to be expected from such a measure. The monopoly has, however, met with violent and persistent, and, as the sequel shows, effective opposition, not only on the ground of the socialistic principle it involves, and that its opponents consider it as being generally inexpedient, but also on the ground that it is a financial blunder, the correctness of the calculations on which the expected enormous yield was based having been pronounced by many of the ablest economists as erroneous to such a degree as to make the hoped-for result wholly illusory.

Institutions similar to the "tobacco monopoly" measure proposed for this Empire existing already in various states of continental Europe, and especially in the great states of France, Austro-Hungary, and Italy, I shall not attempt to submit a detailed statement of the measure; but shall confine this paper to some comments of a general nature, and to a presentation of the statistics on the subject, inclosing for the files of the Department for future reference, if desired, the bill itself, embracing seventy-two paragraphs, together with the "motive and estimates," as well as the very lengthy speeches, occupying several hours in the delivery, of the 12th and 14th instant, of the chancellor, as also the speech of Mr. Von Bennigsen against the bill. In view of the pressure of more urgent work at this legation at this time, it has not been found practicable to transmit translations of the voluminous printed matter inclosed.

As to the estimates on which the bill is based:

The entire quantity of tobacco to be manufactured is estimated at 1,505,720 cwt. (the pound being about one-tenth heavier than the English pound), of which 587,528 cwt. are for cigars; 74,985,680 cwt. for smoking; 12,242,560 cwt. for snuff, and 4,590,960 cwt. for chewing tobacco; viz, about 828,146 tons (English) in all. It is estimated that over three-fifths of this amount, owing to the increased encouragement to be given to planting in Germany, would be of domestic growth; whereas domestic tobacco has hitherto only figured to the extent of only one-third of the quantity manufactured. This, of course, presupposes a falling off in the demand for American and other foreign tobacco.

The total cost of purchase is estimated at 82,599,210 marks; the cost of the foreign tobacco being 60,686,270 marks; that of domestic, 21,912,940 marks. The total wages to be paid are estimated at 47,996,-

795 marks, the calculation being based on the average wages paid at the imperial tobacco factory at Strasburg, as is also the estimate of 18,890,638 marks for cans, bottles, paper wraps, &c., and the estimate of 16,379,565 marks for ingredients used other than tobacco.

The estimated receipts from the sale of the entire manufactured article are 347,770,442 marks, viz: From cigars, 280,413,947; from smoking tobacco, 67,187,169; from snuff, 15,548,051; from chewing tobacco, 8,378,502; from cigarettes, 1,011,780; from imported cigars, 16,030,875 marks. The entire expenses of manufacture being estimated at 173,174,775 marks, a profit of 174,595,667 marks results, which, after deducting the interest, 10,922,500 marks, being 4¼ per cent. of 257,000,000 marks—the estimated amount of the indemnities to be paid under the bill to persons engaged in the tobacco business—there remains the net annual profit of 163,673,167 marks, or, in round numbers, about $89,000,000.

It is argued with great force by excellent authority that many of the data furnished by the government are highly fallacious. For instance, that its promise to employ in the service of the monopoly 80,000 persons, and to grant indemnities to 8,000 persons would be quite impracticable and inconsistent with the end in view—that of obtaining the large hoped-for revenue. This promise, it is urged, must necessarily be based on the assumption that there are just 88,000 persons engaged in the tobacco industry—an assumption not borne out by facts, since the tobacco investigating committee found in 1877 that 99,714 were employed in the factories alone, and the additional number of 22,301 persons engaged in working on the article at home, making a total of 122,015. What is to become of the remaining 32,000 persons? They would be without bread from the outset. Nor could the government hope to employ anything like the number proposed. The monopoly in France employs only some 18,000 persons. Ultimately the monopoly must render useless to many thousands of Germans their only weapons in the struggle of life—their knowledge of their business; while the pitiful indemnity awarded would soon be consumed in enforced idleness or, worse still, lost in enterprises of which they knew nothing.

Just calculations, contended the opponents of the measure, would show the estimated consumption of 388,000,000 to be excessive by 128,000,000 at least. The expenditure to be incurred was, on the other hand, under-estimated. Operatives, according to the bill, were to receive an average weekly remuneration of eleven marks (about $2.60), the licensed sellers an annual income of 646 marks (about $150.) The administration would soon find that it would have to reckon with very different figures for wages and salaries. In connection with the prophecy that the monopoly would soon find itself working with a deficit; violent political opponents of the chancellor also contended that the host of workmen and licensed vendors to be employed, some 140,000 persons, would nevertheless be retained in service to swell, as employés of the government, its already vast army of dependents, and to furnish convenient material with which to fill at elections the seats of the Reichtag with conservative members, in order that the evils of the monopoly might be perpetuated and other government measures be carried.

I will state, in conclusion, that the Reichtag followed the rejection of the "monopoly bill" by the adoption of a resolution declaring that the tobacco interest should be let alone, and that an increase of taxation on that article is called for.

I have, &c.,

A. A. SARGENT.

No. 96.

Mr. Sargent to Mr. Frelinghuysen.

No. 33.] LEGATION OF THE UNITED STATES,
Berlin, June 23, 1882. (Received July 13.)

SIR: Referring to your instruction, No. 9, of the 31st ultimo, I have the honor to state that in my judgment the "Boisselier case," which employed so many reams of paper, is definitely closed by the recent action of the German authorities in issuing discharges from citizenship to the brothers, as stated in my dispatch No. 23 of the 7th instant. I have now, however, a communication (copy inclosed) from Boisselier *pére*, to whose care I sent the documents referred to, that he might communicate them to his sons, wherein he objects to this proceeding of the German authorities as unauthorized, in that the young men had never applied for discharge from Prussian allegiance because they are native-born citizens of the United States, at the same time referring to me for an opinion whether the status of the young men would be impaired by accepting these discharges from an allegiance which they never owed or professed.

The accompanying "condensed statement," which is a correct recapitulation of the facts and several steps in the case taken by the American and German Governments, and unnecessary to transmit, dwells upon the fact that the father is a naturalized citizen of the United States, although residing in Germany continuously since his naturalization for over a quarter of a century.

In my reply to him (a copy of which is inclosed) I give to him my opinion that the matter will now rest, that the form of closing the case by the German authorities is immaterial, and resembles their mode of remitting an unjust fine levied upon youths who have emigrated to America and become American citizens, and do not appear, upon summons for military service, which remission is only by pardon from the Emperor.

Objection might be taken to such pardon on the ground that it assumes an offense where there was none in fact. But the essential is the effectual quittance of any claim, not the form by which it is manifested.

I also call his attention to the fact that it would perhaps be as well to accept this solution of a long standing controversy, as it is practically sufficient, because unnecessary pressure might invite the authorities to examine his own claims to be considered an American citizen, after so long residence here, in view that the treaty fixes the limit of two years as that wherein the presumption of an intention to return to America shall prevail.

While holding that the rights of the sons are not affected by these considerations, in that they exercised their right to choose to be American citizens as soon as they had escaped the parental control which had kept them in Germany since infancy, and had gone to America and in good faith cast their lot with the land of their birth, and that I should deem it my duty to use the influence of the American Government to protect them should these discharges not be final, or other trouble at any time arise, yet he might consider, whether in his own case, it might be considered by the American Government that such a lapse of time, during which he had personally avoided discharging any obligations of citizenship towards the United States, had weakened its interest in and right to claim him as one of its citizens.

In this connection, and because it illustrates the position which I have taken in this letter as to the claims of the Boisselier brothers to citizenship and protection, even if the rights of the father are more doubtful, and also that I may have the advantage of any suggestions from the Department on the general subject, if it deems me in error, I beg leave to inclose a copy of an answer made by me on the 16th instant, to a dispatch of Count Hatzfeldt, asking in an analogous case at what period, from the American point of view, did the American citizenship of two brothers commence who were born of unnaturalized parents in America, and were brought here during infancy and kept here during minority, but who claimed American citizenship when they arrived at military age, the father having become naturalized after their birth, and then removing to and residing with them in Germany. Although I may have occasion hereafter to inclose this whole correspondence in the Oppenheimer brothers' case, to which it belongs, when that case is terminated, I beg leave to submit this part of it as an exhibit in the present case for convenience of comparison.

Count Hatzfeldt asks if these sons became citizens by virtue of their birth of unnaturalized parents in America or by virtue of the naturalization of the father subsequent to their births.

I reply that by the laws of the United States it is provided that children of persons who have been duly naturalized under its laws, being under the age of twenty-one years at the time of the naturalization of their parents, are citizens of the United States, if dwelling there; that these brothers are such citizens by the fact of the naturalization of their parents, they then being minors, and then living with their parents in the United States. But I call his attention to other elements of consideration in their cases. Having been born in the United States of parents of German origin, they acquired by that fact, even if the parents had never been naturalized, the right of election of either American or German citizenship on arriving at maturity, even if in the mean time, while under parental control, they had been removed to Germany. By applying to the American legation in Germany for passports, and taking the oath of allegiance prescribed for that purpose by American law, these brothers clearly elected to be American citizens, and thus exercised their birthright to be recognized as such, and are entitled to the consideration and protection of the American Government. The exercise of such right of election carried their citizenship, by the well-understood law of relation, back to the date of their respective births.

In this connection I call the attention of the Department to the decision of the Attorney-General of June 26, 1865, found on page 564, vol. 13, Foreign Relations.

If I have called the attention of Boisselier *père* to the possible considerations in his own case, as distinct from that of his sons, I trust I may be pardoned from the fact that there are cases of persons emigrating to the United States for the only purpose of procuring, by a short, temporary residence, American naturalization; which secured, they reimmigrate and live here for years, without purpose to return, avoiding the performance of all obligations to the government of their assumed choice, as well as to that of their birth. I have not found by experience that these persons are the less peremptory or exacting in their demands for ample recognition as Americans.

I have, &c.,

A. A. SARGENT.

[Inclosure 1 in No. 33.]

Mr. C. G. Boisselier to Mr. Sargent.

BORBY, NEAR ECKERNFOERDE, *June* 20, 1882.

SIR: Coming home this morning, after a fortnight's absence, I found on my desk your esteemed favor of the 6th instant, covering two documents of the Royal Prussian Government for my sons: Richard Werner and Casper Rethard Boisselier.

Looking over these documents, I discovered that the contents of the same is not in conformity with the true facts of the case, for it is stated *that my sons applied for discharge from Prussian allegiance*, which they never did nor could have done, *being native-born citizens of the United States of America*, and recognized as such by that government as well as by Prussian judicial decision. (1 Please see inclosed copy 1.)

I imagine that these documents would not be fully satisfactory to my sons, and therefore beg leave to return the same for your closer examination.

In order that you may better understand this case, and trusting you will not deem it obtrusive, I take liberty to send you, inclosed, several documents relating to the matter, in connection with a condensed statement of the case.

However, if after reading said papers, it appears to you *that it would not impair my sons' status as native-born American citizens, to accept a discharge from an allegiance to a government they never belonged to*, then I would politely request you to return the documents in question to me, that I may be enabled to deliver the same into the hands of my sons as soon as possible.

Most respectfully, your obedient servant,

C. G. BOISSELIER.

[Inclosure 2 in No. 33.]

Mr. Sargent to Mr. Boisselier.

UNITED STATES LEGATION,
Berlin, June 23, 1882.

SIR: Your letter of the 20th instant, inclosing a statement and sight documents relating to the case of your sons, Richard and Casper, is received, and I have carefully examined all the preceding correspondence in the matter.

It belongs to a class of which the legation has many cases in the course of a year, where young men, whose fathers continually reside in Germany, are summoned for military service, and where they fail to appear, and it is shown that they are living elsewhere, the property of the father is attached as security for a fine which has been imposed on the youths. This fine cannot be collected, however, unless the estate is divided, and in case that does not occur, the attachment expires by limitation in about seven years.

Following some suggestions originally made in this case by Mr. Secretary of State Evarts, and which it may be timely to repeat, it may be remarked there might possibly be some reason in the views taken by the German Government, inasmuch as you, the father, have resided in Germany so many years after naturalization as to have incurred the risk, under the Bancroft treaty, of having lost your American nationality, as well as having involved your minor sons in the same loss. You were naturalized in the United States, and after some years' residence returned to Germany with your infant sons in 1856, and have resided here ever since, viz, twenty-six years. By the treaty it is provided that the German Government may deem the residence of a naturalized citizen for over two years as an abandonment of his American nationality. Thus the treaty says:

"If a German naturalized in America renews his residence in Germany without the intent to return to America, he shall be held to have renounced his naturalization in the United States. * * * The intent not to return may be held to exist when the person naturalized in one country resides more than two years in the other."

Though the German authorities have not taken the ground in your own case that you shall be avowedly a German citizen or leave the country, it is never too late for them to do so, and they would probably take such steps if unnecessarily pressed in the matter. It might also be considered by the American Government that such a lapse of time during which you have personally avoided discharging any obligations of citizenship towards the United States has weakened its interests in and right to claim you as one of its citizens.

In my opinion, the case of your sons is somewhat different. They were born in the United States, have never been German citizens, or sought to become such. While minors, and under parental control they were brought to this country and kept here independently of their own procurement. When they became of age they exercised their

right to return to America and to choose American citizenship, and have ever since conducted themselves as such, and in perfect good faith. Their birth in the United States gave them the right to assume American citizenship as soon as emancipated from parental authority, and such assumption carried their citizenship by relation back to the date of their birth.

As regards the special form of the discharge from Prussian allegiance, I would say that this is the only official form the decision could take; just as in the case of unjust or illegal fines paid or levied for neglect of military service, the only efficient discharge is a *pardon* under the hand of the Emperor, even when the individual is innocent and the authorities culpable. Your sons' discharges appear to be made out on lithograph forms which were very possibly prepared for the cases of Schleswig citizens who had availed themselves of their right to give up their Prussian citizenship after the annexation of Schleswig Holstein, and which must be carried out within six months.

It is my opinion that your sons will hear no more in the matter from the authorities, and that their rights and honor as American citizens are in no way compromised by these documents. But, in case they should be in any way again molested, the legation stands willing and ready to use the influence of the American Government for their protection. Your several inclosures as stated are herewith returned; your statement being retained.

I am, &c.,

A. A. SARGENT.

[Inclosure 33 in No. 3.]

Mr. Sargent to Count Hatzfeldt.

UNITED STATES LEGATION, *Berlin, June* 16, 1882.

The undersigned, envoy extraordinary and minister plenipotentiary of the United States of America, has the honor to acknowledge the receipt of the esteemed communication of his excellency Count Hatzfeldt, provisional secretary of state for foreign affairs, dated June 5, 1882, and is gratified to learn therefrom that the appropriate authorities have been instructed to abstain from measures of force against the brothers Bernhard and Henry Oppenheimer, at Frankfort-on-the-Main, until the conclusion of the investigation in their cases.

The undersigned also observes the inquiry submitted by his excellency relative to these cases, viz:

"For the purpose of this investigation of the relations as regards nationality of the Oppenheimer brothers, it is requested that information may be kindly furnished as to the point of time from which, from the American point of view, the said brothers are regarded as Americans, and in particular as to whether they have acquired North American nationality through the fact of their birth within the territory of the United States (at Washington, in 1857 and 1859), notwithstanding the circumstance that their father had at that time not yet become a naturalized citizen, or through the naturalization of their father, in 1865."

The undersigned takes pleasure in complying with the request of his excellency as above quoted, and to state:

1st. That the brothers Oppenheimer were born in the United States of German parents, who emigrated to the United States and became citizens thereof in due course of time, but after the birth and durign the minority of these sons.

By the laws of the United States it is provided that children of persons who have been duly naturalized under its laws, being under the age of twenty-one years at the time of the naturalization of their parents, are citizens of the United States, if dwelling there.

These brothers are such citizens by the fact of the naturalization of their parents, they then being minors and then living with their parents in the United States.

2d. But it may be further stated that the cases of these brothers have other elements for consideration. Having been born in the United States of parents of German origin, they acquired by that fact, even if the parents had never been naturalized, the right of election of either American or German citizenship on arriving at majority, even if in the mean time, while under parental control, they had been removed to Germany.

By applying to the American legation in Germany for passports, and taking the oath of allegiance prescribed for the purpose by American law, these brothers clearly elected to be American citizens, and thus exercised their birthright to be recognized as such, and are entitled to the consideration and protection of the American Government. The exercise of such right of election carried their citizenship, by the well-understood law of relation, back to the dates of their respective births.

The undersigned, while he has thus the honor to furnish the information requested, avails himself of this occasion to renew to his excellency the assurance of his most distinguished consideration.

A. A. SARGENT.

[Inclosure 4 in No. 33.]

Mr. C. G. Boisselier to Mr. Sargent.

BORBY, NEAR ECKERNFORD, *June* 24, 1882.

SIR: Acknowledging the receipt of your kind lines from the 23d instant, which came into my hands this afternoon with the accompanying papers, I beg leave to express my best thanks for your very prompt attention to the case in question, and your clear explanation of the same, in which my son Richard Werner, who has just returned to me from a trip in the country, joins me.

The papers for himself and for his brother, Casper Dethard, I have handed over to him. He will return to the United States on the 30th of next month.

I remain, sir, &c.,

C. G. BOISSELIER.

No. 97.

Mr. Sargent to Mr. Frelinghuysen.

[Extract.]

No. 45.] LEGATION OF THE UNITED STATES,
Berlin, July 10, 1882. (Received July 27.)

SIR: Presuming that your correspondents from other capitals keep you fully advised of the aspects of political and military movements from their various standpoints, I beg to submit a few observations upon the relations of these movements to Germany, perhaps furnishing a somewhat wider range for induction.

From what I have observed and learned I am satisfied that the influence of Germany has recently been exerted in the interest of peace in Egypt, and to the end of satisfying England and France, through the action of the Sultan, with whom the empire has preserved good relations, its object being to avoid the possible effects of a military campaign by the western powers upon the general tranquility. But these peaceful purposes of the empire bid fair to be thwarted by the hesitations or craft of the Porte, which seeks to regain its hold upon Egypt, and while watching for such advantage lets matters drift into dangerous conditions. The resolute attitude of England during the past week has apparently changed the views of the German Government, so that it now has little hope that the solution can be reached through the Porte, and it seems to sanction the resolution of England to vindicate its dignity and rights by active military operations. Certainly, so far as appears, there has been no protest by Germany against the obvious purpose of England. On the other hand, it seems to adhere to the European concert, and not to consider that the warlike intentions of England can prejudice it.

This policy of Germany seems actually to spring from its strength and self-confidence. It contemplates any eventuality with composure. While its interests would be promoted by peace it is superbly prepared for war. While other European nations maintain great armies, and have well-stored magazines, none equal Germany in acquired facilities to launch in any desired direction the effective enginery of war.

This fact is being perceived by military authorities elsewhere, and is, perhaps, the best guarantee that the peace of the empire will remain undisturbed. On two sides only has Germany apparent occasion for watchfulness—France and Russia.

In the former case there is an apparent feeling of concord between

the administration of M. de Freycynet and the chancellor. But French politics are always uncertain, and back of the present French executive there always looms up the shadow of Gambetta, the *enfant terrible* of the republic, to German eyes. Mr. Gambetta is not chary of his views upon German subjects. The Berlin papers are now discussing with various intonations a recent speech of his before a parliamentary commission, where he is alleged to have said:

I believe that 400,000 old troops are better than 800,000 such as this law will provide us: but the three years' service is in harmony with the present custom of our country. We must accept it. There is a prospect of having a good army if we give it the most manly and most intelligent element that we have. Reserves who only serve one year would be inefficient. In order to cope with Prussia, we must not only be equal, but superior to her. We were beaten, and are therefore obliged to impose heavy sacrifices upon the country. France pays one milliard for its army and navy, and must continue to do so in order to defend its existence.

The spirit of conquest is at present greater in Europe than in the fifteenth century, and is directed against us.. To be or not to be is now the question. I hope the French democracy will not be doomed to these sacrifices perpetually, but now it is a question of life or death with us.

Such utterances from the powerful leader of a party in France, the possible future President of the Republic, necessarily attract attention here.

Upon the side of Russia, unless the incident of the betrayal of the plan of the Baltic defenses and torpedo stations to that government by a Prussian naval officer is false, * * * there is also some reason for watchfulness. The death of General Scobeleff does not entirely relieve the situation.

But German confidence in its ability to cope with any possible adversary, or with several, does not seem unwarranted. On the occasion of the opening of railway running through the city of Berlin, the National Zeitung, in a leading article upon it, among other things said:

The central depot in the Fredierich Strasse has now become a center of great importance to German and Prussian power. If we regard the zigzag lines diverging from it, we are forcibly reminded of the thunderbolts darting from the hands of Jupiter to the right and left.

The object of the road in question, which is extraordinary in its solidity and facilities for handling bodies of men, is undoubtedly more military than commercial. The above article attracted the attention of the French Revue Militaire de l'Etranger, and it reviewed it, alleging that it emanates from the "general staff," and admits that the transportation of German troops has been greatly facilitated by this railway connection.

If it be true that six lines of road are already constructed in the direction of Posen (says the writer in this review), for strategical purposes, the lines leading to Breslau and to Eastern Prussia are no less important. For some years already lines of railroad have been projected through the province bordering on the Russian frontier, while on the Russian side little or nothing has been done in this direction, and consequently there are no facilities for concentrating large bodies of troops in a short time, or even assuming an energetic offensive.

This comparative statement of the relative facilities for handling troops of Germany and Russia is quite accurate. Owing to the splendid system of railways in Germany, that part of Poland situated on the left bank of the Vistula, or perhaps the whole of that province, with the exception of the fortified places, lies open to German invasion and occupation. It is even possible that, owing to the inability of Russia to concentrate troops on the Vistula in time, she would be forced to take up a position much farther in land, in which case the German army would gain an advantage, the result of which cannot be foreseen; an advantage which could not be reckoned by hours, but by days.

The effect of this system of railways, of which the road through Berlin is the completion and key, is to enable Germany to transport troops even from a battle-field on her eastern or southern border to the west, or wherever needed. That power doubles its forces which can rapidly handle them, and concentrates them on new points. In the event of a war with a powerful neighbor, if Germany were compelled to defend itself against another, or possibly a simultaneous attack, it could make the most of its regular army and reserves, and concentrate with crushing force first upon one and then upon the other of its enemies, holding the one in check while destroying the other. Her central position is favorable to this, and her railroad system utilizes it.

It is important to notice that all these lines of German railroads extend into the heart of Lorraine. They are ready for instant service against France as well as Russia. They serve as good purpose on the side of Austria. In the event of war with either of these powers, or with all of them, they are inestimable.

The German papers are aware of the great advantages given by this railroad system, and glory in it as a means of gaining inestimable time in a decisive moment. The Berlin Tageblatt relates that in the campaign of 1866, at the battle of Langensalza, it became imperatively necessary to throw as large a force of troops from the interior as could be spared into Thuringia, to intercept the Hanoverian army, and cut off its retreat toward the south. Everything depended upon it. The Emperor personally urged men on furlough in the streets of Berlin to join their commands, and lagging troops were dispatched in special vans. The object was accomplished and the Hanoverian army was captured. It instances a case where a rapid movement saved a great battle in the Franco-Prussian war, and might have instanced Blucher's timely descent on the field at Waterloo. Most of Napoleon's successes were gained by his superior activity in concentrating his troops at unexpected points. It would seem that Germany is acting upon Bismarck's aphorism, that its central position acts like a magnet to attract to it the bayonets of Europe, and has created a system of rapid transportation for its troops and munitions of war that will enable it to strike at any point on its circumference, vehemently and rapidly, where necessity or policy may require.

In this view of its gigantic resources it is not difficult to see why it is so self-poised in the midst of present complications, and yet exerting its great influence to preserve the peace of Europe.

I have, &c.,

A. A. SARGENT.

No. 98.

Mr. Sargent to Mr. Frelinghuysen.

[Extract.]

No. 52.] LEGATION OF THE UNITED STATES,
Berlin, August 25, 1882. (Received September 13.)

SIR: The resolute and rapid action of England in Egypt seems to have taken Europe by surprise, and made that power complete master of the situation. It was a vital question in the early summer if England would be allowed by European public sentiment to adopt an aggressive policy in dealing with Arabi Pasha and the military party in Egypt. The

press in several European capitals was very hostile to English pretensions, and in places where it was conceded that English interests and prestige would justify forcible intervention it was declared that England would bluster and not fight. Such was the prevailing tone of influential German newspapers, while those which usually semi-officially speak for the administration were remarkably silent. But some information, which appeared to me reliable, tended to convince me that England would act energetically, and would carry with it the tacit consent, if not the expressed concurrence, of Germany; and I ventured to so predict in my dispatches of that period, and that the remainder of Europe would acquiesce.

The event seems fully to justify that view. England has acted in Egypt with unusual celerity and decision, refusing the concurrence of the Porte except on terms, and adopting the extremest measures—as the seizure of the Suez Canal—to secure military results.

The effect of all this upon contemporary opinion is curious. The Italian press, an uninfluential quantity, is fussily bitter. France has lost an opportunity for co-operation and enhanced prestige. * * * The Republique Française observes:

> At present we are powerless spectators, and can do little more than take note of facts long foreseen and rendered inevitable by a policy of neglect. The British Cabinet will not fail to find excuses, and, to be just, we must admit that it can invoke some very specious ones.
>
> * * * * * * *

The German press, almost without exception, now acquiesces in the situation. For some weeks past some newspapers here have sought by clamor to influence the government to object to "British aggression" in Egypt, but these efforts seem now to have ceased, in view of the continued success of English warlike movements, though they would probably recommence if the tide of fortune should change. As the matter now stands it may be said that Germany has assumed the role of indifferent observer of Eastern events. Its asserted friendship for Turkey has probably been severely tried by the procrastinating and evasive policy of the latter power, making advice to it of doubtful benefit, and the continued sympathy of a direct, positive man like the chancellor, impossible.

It would seem that there is still nothing in the existing situation dangerous to the general peace of Europe. It would be difficult to limit the questions that may arise were England to prevail in Egypt to the extent contemplated by its military preparations. French interests in the Mediterranean are inconsistent with permanent English control of Egypt. Germany is not likely to view with complacency any great accession of power by England or by any other power within striking distance, and it will probably obstruct measures looking to the ultimate humiliation of the Porte. Austria is but the second of Germany in the diplomacy of this decade. Further, it is difficult to see how England can treat Egypt as its sick man, and Europe permit it, and yet object if Russia shall apply the same regimen to Turkey generally. Logic is not always the prominent element of statesmanship, and consistency still less, so much do circumstances dominate nations. Europe may not feel obliged to consent to Russian aggression upon Turkey, even if it allows English absorption of Egypt, though the moral force of objection would be weakened. These questions and others, such as the mode and measure of English pecuniary indemnity at the expense of Egypt, must speedily arise, and will be more likely to disturb European tranquility than even the stirring events now transpiring. The Kreuz Zeitung particularly represents the German Government, and in a re-

cent article gives evidence that the present quiescent attitude of Germany is only provisional. This paper, after referring to the successes of the English arms, expresses the opinion that the solution of the Egyptian question is still far off. The relations between England and France, and between those powers and the Porte, regarding the latter's rights of sovereignty, are still unsettled, and no agreement as to the so-called national question in Egypt has been arrived at. It deems it impossible to foresee what aspect these questions may assume in the future. Former differences are adjourned, not settled. As the sovereignty of Turkey has been expressly recognized by the conference at Constantinople, England could not disregard it, and the national question in Egypt could only be discussed after Turkey had shown what attitude she would take in presence of this movement.

The paper warned its readers not to see in the present situation the solution of these questions, "for new difficulties will be unavoidable after the English have finished their military operations."

It is not difficult to read throughout this article a caveat served on the English Government that the inaction of Germany does not mean a lack of interest in the question whether England shall come out of these difficulties an invincible Mediterranean power, and that the fate of Egypt and Turkey is still a matter with which the Eastern nations have concern.

Perhaps as significant is the remark that the national question is in abeyance in Egypt. Arabi assumes to represent a national party, if Germany and other Eastern powers shall hereafter seek to maintain Arabi's cause, they cannot abandon Arabi to the vengeance of the English. Unless England feels able to maintain itself against all Europe, it may find its victories barren of results.

I venture to say that the policy of cabinets to yield to measures for the present is not popular in any European state, and especially in Germany. I could give you many evidences of this were it not to too much lengthen this dispatch. But such a state of public feeling makes more probable action restrictive of English designs hereafter.

I have, &c.,

A. A. SARGENT.

No. 99.

Mr. Sargent to Mr. Frelinghuysen.

[Extract.]

No. 60.] LEGATION OF THE UNITED STATES,
Berlin, October 2, 1882. (Received October 19.)

SIR: It is sufficiently long after the decisive victory of the English at Tel-el Kebir in Egypt, and the suppression of the rebellion against the Khedive, to form some judgment of the effect of these results upon current opinion in Europe. So far as Egypt is concerned, it appears to be demonstrated that the so-called "National Party," of which Arabi Bey was said to be the leader, had no existence. The natives there have hailed the Khedive, restored by British arms, with demonstrations of delight similar to those by which they hailed his overthrow.

It seems a matter of little moment to them which side wins so long as there is excitement. The officials who groveled to Arabi now grovel to Tewfik. This spectacle of official and popular flexibility has gone

far to silence those who held that Arabi was the representative of a party struggling for a higher national life, and seems to demonstrate to them that it is safe to apply the ordinary rules of human nature, and disregard ideas of irreconcilable fanaticisim on the part of the Egyptians.

These considerations have removed one ground of sympathy for Egypt, and lightened the difficulties in the way of England restoring peace and giving a stable administration to Egypt. There being no native element out of which, unassisted, such an administration can be constructed, it seems natural that Europe should allow England, which speaks with the logic of accomplished facts, to have freer scope in creating a permanent peace.

But other causes tend to the same end. Despite the hostility of a part of the European press, there are too many interests involved for most of the governments for these to wish to thwart this consummation. Many of the subjects of each government have a stake in Egypt. England has these motives in common with the rest of Europe, and had two others, viz: That the Suez Canal be open to it at all times, and that no power capable of becoming detrimental to its position on the Mediterranean be established at Alexandria.

For these reasons it singly fought the fight which is now more and more admitted to have been in the interest of Europe. Had defeat instead of prompt and brilliant victory, attended its efforts, the harmony of opinion in its favor would probably have been less.

Statements have recently been made, with some confidence, that Germany is ready to form an understanding with England on the basis of its countenance of a permanent English occupation of Egypt. This would involve a new grouping of European powers; at least less reliance by England on her traditional alliance with France, and a more cordial co-operation and alliance with the German powers. Germany, it is suggested, would indirectly gain by greater isolation of France; while England might thus show its estimate of a connection that left it in the lurch at the first moment that a strain was put upon it.

The Kreuz Zeitung, the presumed organ of the chancellor, takes pains to deny that any advance towards such an understanding has been made by Germany, although it had just previously published articles strongly advocating the closer co-operation of England and Germany in the work of reorganizing Egypt on the basis of altered circumstances.

Perhaps the only value of the discussion, whatever the fact, is to show that there is less disposition in this powerful center of influence to prevent England from obtaining its full measure of future security in Egypt than at one time seemed probable. But there may be external causes for this. The aim of those in France who wish a strong foreign policy for that country, and who were overruled by a refusal of the French Chambers to vote the credit that should enable France to send a force to Egypt to co-operate with England, is to preserve the Anglo-French control in Egypt.

Strenuous efforts are being made by such French influences to persuade England to moderation, and to further concord with the French in managing Egyptian affairs.

The proposition has less force than if French ships had aided to bombard Alexandria, and French troops had touched elbows with the English at the assault of the fortifications of Tel-el-Kebir. Astute politicians may see in the recent history elements of divergence between these two powers, in which the one may not readily concede to the other a re-establishment of ante-war conditions. It is natural to assume that Germany may feel drawn nearer to England in such event, or may

even actively encourage a state of things that would lead to a rupture of the French-English concord. My conclusions upon the latter point are more drawn from the recent history of Europe and observations of the general tendency of European politics, than from special information.

I beg leave to add that the recent policy of England, and its prompt and effective military operations, have not only enhanced its real power in the Mediterranean, but vindicated it from the suspicion some time entertained that it would retreat from a conflict like that through which it has just passed, rather than make good any threats to enforce its demands by war. It has engaged in a great enterprise for the protection of its interest and the honor of its flag, and has shrunk from no sacrifice to attain its object.

* * * * * * *

But in this Egyptian emergency, England disregarded the refusal of its associate to co-operate in putting down anarchy in Egypt, and without waiting for the express concurrence of the Eastern powers, gallantly urged the fight with its single resources, while holding the Porte, and perhaps the Eastern powers, quiet by its able diplomacy.

It is not a matter of suprise that a strong government like Germany should recognize such strong policy, and give its respect to its authors as well as its implied assent thereto.

I have, &c.,

A. A. SARGENT.

No. 100.

Mr. Sargent to Mr. Frelinguysen.

No. 61.] LEGATION OF THE UNITED STATES,
Berlin, October 2, 1882. (Received October 19.)

SIR: At my request, the second secretary of legation, Mr. Chapman Coleman, has prepared a report upon the organization of the courts of law in Germany, which I have the honor to inclose.

This report is very complete, and great pains have been taken by its author to insure its accuracy. I doubt not it will be of permanent value to the files of the Department; and, if published, will be of use to the legal profession, as furnishing a means of comparison between the diverse judicial systems of the United States and of the State governments, many of which are in continual process of change. While this report shows some curious features of legal administration, it may also be found that the German system of courts as herein shown contains some valuable and suggestive peculiarities.

The report is founded not only upon information derived from eminent German lawyers and judges, but also on that obtained by a conscientious examination of the laws relating to the subject, a task for which Mr. Coleman is exceptionally well qualified.

I have, &c.,

A. A. SARGENT.

[Inclosure in No. 61.]

Mr. Coleman to Mr. Sargent.

LEGATION OF THE UNITED STATES,
Berlin, September 30, 1882.

SIR: I have the honor to submit herewith, pursuant to your request, a report upon the organization of the courts of law in Germany.

This report is based upon the law of January 27, 1877, organizing the courts of the Empire. This law is the first of a series of four laws, enacted in the months of January and February, 1877, known collectively as the judicial laws, and consisting of the law above referred to, of the code of civil procedure, of that of criminal procedure, and of the bankruptcy code. The codes enumerated and other laws will be treated of in this report only in so far as references in the law under consideration constitute portions of them a part of that law. The entire body of the judicial laws, with the introductory enactments, and those carrying them into effect, constitute a mass of material quite too voluminous and complex for the scope of this report. Other portions of those laws, and especially the code of civil procedure, greatly merit the attention of foreign students, and might perhaps, hereafter, be advantageously made the subject of further reports.

At as early a date as May, 1870, the re-established German Empire could boast of the accomplishment of unification in the penal code; and a codification of civil laws for the empire has long been under preparation in the hands of the most eminent jurists of the country, and will, in a few years, have been completed, and a result have been attained that may well be regarded as grand, in view of the diversity of systems pre-existing in the various states constituting the present empire, and also in view of the youth of the empire.

I am assured by Baron von Diepenbroick Grüter, a judge of high authority, until recently a member of the court of supreme jurisdiction in this kingdom, and a gentleman to whom I am indebted for many valuable suggestions bearing upon the subject of this report, that most marked benefits have already resulted from this unification, in the avoidance of interstate conflicts of law-evils sufficiently to be deplored in our own country, arising out of the divers systems. Salutary results had also ensued from new features, from improvements, embodied in the new system, into which a new spirit seemed to have been infused since unification.

Trusting the foregoing introductory remarks upon the German judicial laws in general may not have been inappropriate in connection with this report, I shall hereinafter confine myself to the discussion of the organization of the German courts, of the regular, ordinary machinery for the administration of justice in this country.

There is a number of other courts provided for by imperial legislation—courts of peculiar, limited jurisdiction—which will receive no further consideration here. I shall, however, in a final chapter, endeavor to present the leading features of a system of arbitration provided for by the code of civil procedure, for the purpose of compromising contentions, and thereby avoiding recourse to the courts of law.

I have, &c.,

CHAPMAN COLEMAN,
Second Secretary of Legation.

I.

Qualifications necessary for, and appointments to, judicial offices.

THE FIRST EXAMINATION.

Candidates for judicial offices must pass two examinations. Three years' study of jurisprudence at an university, one half of this period at a German university, must precede the first examination, which, in Prussia, takes place before one of six specified superior land courts. The examination is verbal and in writing. Its subjects are the principles of public and private law, as well as those which underlie statesmanship. The examination must show the positive knowledge of the candidate, his insight into the nature and historical development of legal relations, as also whether he has acquired for his future avocation the requisite general knowledge of law and state craft. In case of failure the examination may be repeated once, after an interval of at least six months. This examination passed, the candidate acquires the right to the title of "referendarius," which is conferred upon him by the president of that superior land court to which he applies for employment and before whom he takes the oath of office.

Between the first and second examinations an interval of four years must elapse, which period is employed in service with the courts and with attorneys-at-law, and may be spent in part with a state attorney. The occupation furnished the referendarius during this period of preparation is such that he acquires in all the branches of business that appertains to the office of a judge, of a state attorney, of a lawyer and notary, that insight and practical skill which are requisite for the administration of those offices. The referendarius may perform the functions of a court clerk. After having been engaged for at least two years in preparatory service, in case of need, he may be assigned, by the department of justice, to the temporary conduct of judicial business. The amts-judge, to whom superintendence over his preparatory work has been

confided, may also, under like conditions, intrust to him the management of particular judicial affairs, and he may also be intrusted with the business of the amts-attorney. A referendarius is not qualified to perform certain important acts. In particular is he incompetent to pronounce judgment. He may, however, be empowered to act as substitute for an attorney-at-law temporarily prevented from fulfilling a professional duty.

THE SECOND EXAMINATION.

After the expiration of the preparatory period of four years, the referendarius is admitted to the second—the great state examination—if it appear from the testimonials as to his employment that he may be regarded as qualified for the ordeal. In Prussia this examination takes place before the judiciary examination committee, at Berlin, appointed for such purpose for the entire kingdom. This second examination, as in the case of the first, must be of an essentially practical character. Its end is to ascertain whether the candidate has acquired a thorough knowledge of the law, common, public, and private, which obtains in the country, and whether he may be regarded as qualified to assume with success an independent position in the judicial service.

In case of failure this examination may be repeated, once only however, after an interval of at least nine months.

This second examination passed, the referendarius receives from the minister of justice the title of court assessor, and is then qualified to become a judge. Appointments to vacancies in judicial offices (in the amts-courts) are made from a list of assessors arranged according to the date of the acquisition of the title. The assessor has not long to wait for an appointment if he announces himself, as the phrase goes, "at disposal," that is to say, announces his willingness to assume the duties of an amts-judge *at any place*. Pending an appointment as judge the assessor is assigned for unsalaried employment to an amts or land court. A transference can only take place with his consent. He is, however, obliged, upon the direction of the minister of justice, to assume temporarily the duties of an amts-judge, of an assistant judge, or of an assistant in the office of a states attorney, returning after the performance of such duty to that court or state attorney's office to which he was before assigned.

It is here remarked that the office of judge is never elective in Germany, and that appointments to the bench are made only as above stated.

II.

Principles underlying the German organization of courts.

Proceedings in the courts, inclusive of the rendering of decisions and judgments, except in certain exceptional cases defined by law, are public. Upon the presiding judge of the court, and upon an individual judge performing without the court an official act, devolves the duty of maintaining order. The court may adopt measures of compulsion (proceedings for contempt) against the parties, the accused, witnesses, experts, or against other persons not participating in the proceedings, who refuse to obey commands given to that end; and may cause their removal and incarceration for a period not exceeding twenty-four hours. Without detriment to subsequent criminal prosecution, the court may also impose upon the persons of the categories referred to in case of offensive behavior, a fine not exceeding 100 marks or incarceration not exceeding three days, which penalties may be immediately enforced.

An official dress, consisting of a black robe, white necktie, and black *barett* is prescribed for judges, state attorneys, and clerks in public sessions, and also for attorneys appearing before public sessions of the land and superior land courts. The language of the court is German, interpreters being employed in case of need. Only when present in the number prescribed by law are judges competent to render decisions, which are given by an absolute majority, except in criminal matters, when a majority of two-thirds is requisite for the adoption of any decision adverse to the accused and affecting the question of guilt.

During court vacation, which begins on the 15th of July and ends on the 15th of September following, terms must be held and decisions rendered in criminal and other pressing matters defined by law.

III.

Subdivision of the court system and jurisdiction in general.

Ordinary contentious jurisdiction is exercised by the amts (office) land and superior land courts, and by the supreme court of the empire. All civil litigation and criminal matters, except such as by imperial legislation are assigned to the cogni-

zance of administrative authorities or tribunals, or to exceptional courts, are subject to the jurisdiction of the ordinary courts of law.

The courts are state courts. All private jurisdiction is abolished. In its stead the jurisdiction of that state of the confederation in which it existed is exercised. All patronage connected with appointments to office in courts is abolished. The exercise of spiritual jurisdiction in secular affairs is not admitted, this provision having particular application to the marriage relation.

The jurisdiction of the German courts does not extend to the chiefs and members of foreign missions accredited to the German Empire. If those persons are citizens of one of the states of the confederation they are exempt from internal jurisdiction in so far only as the state to which they belong shall have renounced jurisdiction over them.

The chiefs and members of missions accredited to one of the confederated states are not subject to the jurisdiction of such state, nor are members of the families, or the business *personnel*, or such servants *as are not Germans* of the persons mentioned in this and the next preceding paragraph.

Consuls appointed in the German Empire are subject to internal jurisdiction in so far as exemption therefrom is not agreed upon in treaties entered into by the empire with other powers.

As regards Prussia, the location and territorial jurisdiction of the superior land and land courts are under the provisions of imperial legislation, fixed by Prussian law; and those of the amts courts by royal decree. Once established, the latter can, however, only be changed by law. Within the kingdom there are thus established 13 superior land courts and 1,090 amts courts. At one and the same place, and at Berlin only, are there two land courts. For each province of Prussia there is a superior land court. For East Prussia, at Konigsberg; for West Prussia, at Marienwerder; for Brandenburg, at Berlin; for Pomerania, at Stettin; for Posen, at Posen; for Silesia, at Breslau; for Saxony (the Saxon province of Prussia), at Naumburg; for Schleswig-Holstein, at Kiel; for Hanover, at Celle; for Westphalia, at Hamm; for the Rhine province, at Cologne. In the province of Hesse-Nassau alone are there two, at Cassel and at Frankfort-on-the-Main. The provincial superior land court at Berlin has the peculiar designation of chamber-court (*kammer gericht*).

In the amts courts schöffen courts are constituted. In the land courts jury courts are periodically constituted, and also chambers for commercial matters. (These organizations within the respective courts will be discussed later on under the titles of the particular courts.) The supreme court of the empire has its seat at Leipzig.

IV.

The amts courts.

The amts courts are presided over by a single judge. When several judges are attached to an amts court the judicial administration of the particular state assigns to one of their number the general supervision. Every judge disposes of the business devolving upon the court as a single judge.

A.—Civil jurisdiction of the court.

The subjects of the jurisdiction of the amts court in civil litigation, with the exception of particular matters assigned to the land courts irrespective of the value of the object, are the following:

1. Litigation concerning property rights where the object is of a value in money, or the equivalent of money, not exceeding 300 marks.

2. Without regard to the value of the object, contentions between landlords and tenants concerning the letting, using, and relinquishment of dwellings and other places, as well as concerning the retention by the landlord of articles brought into the same by the tenant. Contentions between master and servant, between employers and employés, concerning their respective engagements; also certain contentions particularly designated in the industrial laws concerning the relations subsisting between proprietors and hands in industrial establishments.

Litigations between travelers and hosts as to bills for entertainment and concerning the hire of vehicles between travelers and drivers, or between the former and boatmen, arising out of ferriage, or between forwarders of emigrants and travelers at ports of embarkation concerning their passage and the transportation of their property, and to loss of, or damage to, such property, and contentions between travelers and artisans arising out of the journey, such as relates to defects in cattle and to injury done to game; claims arising out of *crim. con;* the procedure in the publication of bans.

The jurisdiction of the amts courts in civil cases also extends to the declaration of

the attainment of their majority by minors, and the reversal of such act; to the issue of warrants of arrest, and, in urgent cases, to the issue of a variety of orders having merely temporary application; also to bankruptcy matters.

B.—Competency of amts courts in matters not litigious.

The amts courts are competent in matters not litigious to conduct registries of commercial persons, firms, and associations; in matters relating to guardianship; further, unconditionally in all matters relating to inheritances, including the issue of certificates of heirship; in matters appertaining to the management of beneficial institutions, with the proviso, however, that the ministry of justice of the particular state may intrust the same to the land or superior land court. The amts court also grants dispensations from the prohibition of marriage to women before the expiration of the tenth month after the termination of their former marriage. The care of the duplicate lists of births, deaths, marriages, &c, is also intrusted to these courts.

C.—Jurisdiction of the amts judge for particular acts.

Upon the amts court judges, as such, devolve a number of particular acts, especially in preliminary proceedings. The more prominent ones are the issue of the warrant of arrest before public indictment, the first examination of the prisoner, the exercise of judicial inquisition in preparatory proceedings, and the disposal of applications for assignment of counsel. Further, the conduct of a preliminary examination may, under certain circumstances, be assigned to amts courts judge by resolution of the land court or by the supreme court of the empire (in penal matters in which the latter court has jurisdiction in the first and last instance); also, the execution of penal sentences and judgments imposed and rendered in the first instance by the amts court organized as a schöffen court.

D.—Schöffen courts.

For the trial of certain criminal cases schöffen courts are formed at the amts courts. This court consists of the amts judge, who presides, and of two laymen.

"Schöffen," in the singular number "schöffe," is a word hardly susceptible of translation, and I shall designate the court thus compounded by the German name.

The schöffen are laymen called upon to decide, in conjunction with a person learned in the law; a judge Since 1848 the codes of criminal procedure of certain German states had confided to the decision of similar tribunals minor criminal cases before then assigned to public authorities or to single judges. Such tribunals have been in particular applauded by opponents of the jury system, who have gone so far as to advocate the assignment to them, in a modified and enlarged form, of the gravest criminal cases. By the law under consideration it will be observed that no larger scope than cognizance of police ordinances and of a number of minor offences has been awarded to them.

The law declares that the office of the laymen, who, in conjunction with the amts judge, constitute the schöffen court, is one of honor, that shall be exercised only by a German. Conviction for crime and certain other disabilities constitute disqualifications for the office. Certain categories of persons are declared ineligible owing to their position, and others are *permitted* to decline to assume such duty on ground defined by law. A so-called original list, renewed from year to year and containing the names of those persons who are qualified and required to perform this service, is furnished by the chief magistrate of the community to the amts judges; is by them revised, and then submitted to a committee composed of trustworthy citizens and a state administrative officer, which is presided over by the amts judge, in order that an annual list for each business year may be made out, the number of schöffen necessary for each amts courts having been first fixed by the department of justice of the particular state. The days for regular sessions of the schöffen courts are s ttled in advance for the entire year, and the days on which individuals shall participate are determined by lot. Like jurymen, schöffen are sworn before assuming their judicial office, and are reimbursed for traveling expenses. The essential differences between schöffen and the bench of jurors consists in the fact that the schöffen and the judge constitute a collective (*colleagual*) body, which the jury and judge do not. The schöffen court passes upon the law and the fact, the jury upon the fact only. While the decisions of the former can be appealed from, appeal is inadmissible in all other criminal judgments.

The following are some of the categories of persons disqualified for the office of schöffe: Persons who have not attained their thirtieth year at the time the original list is made out; persons who at that time have not resided two full years in the community; persons who for themselves or their families receive alms from public funds,

or have during the past three years received such; persons not suitable on account of physical or mental defects; servants.

The following classes are not called upon for such service: Ministers of state; members of the senates of the free Hanse cities; those officials of the empire who are at all times subject to temporary retirement; state officials who, by the laws of the particular states, are subject to such retirement; judicial officers and state-attorneys and other officials in the offices of the latter; officials who execute judicial and police process; servants of the church; teachers in public schools; military persons belonging to the active army and navy.

The following persons are permitted to decline the performance of such service: Members of any German legislative body; individuals who, during the last business year, have performed jury or schöffen duty on at least five days; physicians; apothecaries who have no assistants; persons who have attained their sixty fifth year at the time the original list is made out, or would attain it before the conclusion of the business year; persons who succeed in making it appear credible that they cannot sustain the expenditure attendant upon the exercise of the office.

The jurisdiction of the schöffen courts embraces the following offenses:

1. All contraventions (*Uebertretung*) punishable with confinement of from one day to six weeks.

2. Those misdemeanors punishable with imprisonment not exceeding three months, or with fine not exceeding 600 marks. These penalties may be adjudged separately or together, or conjointly with the penalty of confinement, or together in conjunction with confiscation.

The words misdemeanor, confinement, and confiscation have, in the above connection, a special technical meaning, and call for definition: Misdemeanor, "vergehen," is an act for which the maximum penalty is imprisonment in a fortress, not exceeding five years; confinement, "haft," is imprisonment of from one day to six weeks; and by confiscation, "enziehung," the confiscation of the thing used or meant to be used in the commission of a crime or misdemeanor, is intended.

Certain misdemeanors specially assigned to the land courts and stated later on, are excepted.

3. Prosecutions for insults and bodily injuries, in which prosecution ensues only upon complaint of the aggrieved party.

4. The misdemeanor of theft of personal property, the value of which does not exceed 25 marks.

5. The embezzlement by a person of the property of another, in his possession or care, when the value of the property does not exceed 25 marks.

6. The commission of fraud, the damage not exceeding 25 marks, by a person, who in the pursuit of unlawful gain for himself or for a third person, inflicts loss upon another by suggesting or supporting an error, by false representation or by misstatement, or by suppression of true facts.

7. Intentional or unlawful injury to, or destruction of, an article belonging to another, the damage not exceeding 25 marks.

8. Certain acts of an accomplice after the fact, in particular cases designated in the penal code, provided the act to which the offenses refer comes under the jurisdiction of the schöffen courts.

Finally, the schöffen courts dispose of the criminal matters assigned to them for trial and decison by the penal chambers of the land courts at the opening of the trial, upon motion of the state's attorney. In so far as the schöffen courts have not already jurisdiction upon other grounds, such assignment may take place in the following misdemeanors, the circumstances justifying the assumption that no other or greater penalty than that designated under figure 2, above, could be adjudged and no higher fine than 600 marks could be imposed:

1. Resistance to state authority mentioned in certain paragraphs of the penal code.

2. Breach of arrest, or grand breach of "house peace" (*Haus freidensbruch*, wrongful entry of, or refusal upon competent command to retire from dwellings, places of business, and inclosed spaces intended for the dispatch of public business, under circumstances of aggravation, punishable with imprisonment up to one year.)

3. Causing public offense by immoral acts.

4. Insults and bodily injury in cases in which prosecution takes place only upon complaint of the injured party.

5. Dangerous bodily injury (by means of a weapon, and in particular of a knife).

6. Simple theft.

7. Simple embezzlement.

8. The case of an accomplice after the act.

9. The same where the accomplice derives personal profit.

10. Simple fraud.

11. Criminal appropriation of property by removal of articles in anticipation of execution.

12. Simple injury to property and injury to public monuments.

13. Intentional breaches of quarantine regulations for the prevention of the introduction or spread of infectious or contagious diseases, or of pests affecting cattle, in cases in which a human being or cattle are not attacked by the diseases or pest.

14. Those misdemeanors which are punishable with imprisonment not exceeding six months or fine not exceeding 1,500 marks, alone or together, or conjointly with confiscation.

15. Certain cases of contravention of provisions of law concerning the levying of public dues, in which the penalty consists in the exaction from the offender of a multiple amount of the dues.

The schöffen, or laymen of the schöffen courts, exercise in the trial the office of judges in the fullest scope, and with the same vote as the amts judges, participating also in all decisions in the course of the trial not connected with the rendering of judgment, and which can be given without previous verbal discussion.

Without the co-operation of the schöffen the amts courts may adjudge in penal cases only, the state's attorney assenting, when the accused brought to the bar in a prosecution for misdemeanors confesses the act with which he is charged.

V.

Land courts.

A.—Organization of the same.

The land courts are composed of a president and the necessary number of "directors" and members. Within these courts civil and penal chambers and jury courts must be, and commercial chambers may be, formed if deemed requisite. According to need a number of judges of inquisition (examining judges) are appointed for them by the department of justice of the particular state. The president presides in the plenum, and the president and directors in the chambers, the president deciding before the commencement of the business year to which chamber he will attach himself. The latter and the directors decide by a majority of votes who shall preside in the remaining chambers, the president giving the casting vote in case of a tie. The president, the directors, and the oldest members constitute the presidential college. Before the commencement of the business year, and for the period of its duration, the presidential college distributes business among chambers of the same kind, and appoints the standing members of the individual chambers, as well as their standing substitutes.

A quorum in the chambers, competent for decisions, consists of three members, inclusive of the presiding judge. For trial purposes the penal chambers must, as a court of appeals in "contraventions." consist of five, and in prosecutions upon private motion, of three members. In case the regular presiding judge is hindered the oldest member of the chamber takes his place, and in case a regular substitute of a member is hindered the president appoints a temporary representative. If it be found impossible to substitute for one member another of the same court, the representative is appointed from another court by the department of justice of the particular State, upon motion of the president of the court, and such appointment is irrevocable during the period for which it is made, and until the necessity has ceased to exist. The compensation is to be fixed in advance for the entire period. The judges of the amts courts are required to assume the representation in particular sessions, and for particular affairs, of a judge of the land court in which district they hold appointments. The department of justice of the particular State may, on the ground of the remoteness of the seat of the land court, direct that a penal chamber be formed and attached to an amts court, for the district or districts of one or more amts courts. The membership of such chamber consists of land or of amts court judges of the district, and to such tribunal may be assigned the full jurisdiction of the penal chamber of the land court, or a part thereof. Such penal chambers have in Prussia been attached to 35 amts courts.

B.—Jury courts.

For the trial of penal cases jury courts are periodically constituted in the land courts. For the decision of the question of guilt, they must consist of three judicial members, inclusive of the presiding judge, and of twelve jurors. The decisions in jury court trials are rendered by the judicial members of the court, and in case the court be not in session, by the penal chambers of the land courts. The presiding judge of the jury court is appointed for the term by the president of the superior land court from the membership of the latter court or that of the land courts belonging to the district of such superior land court.

The substitute of the presiding judge and the remaining judges are appointed by the president of the land court from the membership of the same.

The office of juror is an office of honor to be exercised by a German only. The qualifications are the same as for the schöffen. No one is required to serve both as ju-

ror and schöffe during the same business year. The president of the land court determines the number of jurors requisite for each court, as also their distribution among the various districts of the amts courts. A committee, constituted for the purpose in amts court, selects annually from the original list of schöffen the persons proposed as jurors (the triple number assigned to the amts court district) and makes out a roll. At a public session of the land court, in which five members, inclusive of the president and directors, participate, the number of jurors destined for the jury court are selected from the proposed roll and placed in separate annual lists. From the annual list the president of the land court in open session, in which, in addition to the president two members take part, constitutes by lot the special roll of jurymen for the particular trial term. The formation of the jury for the particular case is a part of the trial. Jurors not appearing for duty are subject to the same penalties as schöffen in like cases. The penal chamber of the land court may direct that particular jury court sessions be held at some place other than the seat of the land court.

C.—Commercial courts.

These courts for the trial of commercial cases are constituted in close analogy to the schöffen courts hereinbefore described. The commercial court is composed of an element learned in the law, of the judge, and of business men, and passes upon both fact and law. Elsewhere than in Germany, so far as I have read, no court exists of which a controlling element is composed of laymen experts in the matter to be considered; though certain tribunals in England constituted for particular commercial interests, such as the courts of admiralty and bankruptcy, may be regarded as somewhat similar institutions, while in our own country juries of experts are sometimes called upon to decide upon questions of fact, although not upon the law.

The department of justice of the particular state may, if it think proper, cause the formation of chambers for commercial cases at the seat of the land courts for their respective districts, or elsewhere within those districts, for designated parts of the same. To the jurisdiction of the chambers for commercial matters, in case their jurisdiction is invoked by one of the parties, belongs that civil litigation in which the land courts have original jurisdiction, in which the complainant seeks the enforcement of the following claims:

1. Claims against a merchant arising out of transactions which on the part of both litigants are commercial transactions.
2. Claims arising out of commercial paper (bills, notes, &c).
3. Claims arising out of certain legal relations, such as the mutual relations among members of a commercial association or partnership; questions concerning the use of the firm name; those which relate to protection of trade-marks, samples, and models; questions concerning maritime law, &c.

The commercial chambers organized for trial consist of a member of the land court, who presides, and of two commercial judges, who have respectively the same right of vote. The presiding judge may also be a member of an amts court, if the seat of the commercial chamber is not identical with that of the land court. In matters having reference to the owner or master of a ship and the ship's crew, the presiding judge is competent to decide alone.

The office of a commercial judge is an office of honor, for which a German only is qualified who is or has been duly registered as a merchant, or as the head of a stock company, or who, at a sea-port, belongs to the number of those persons familiar with navigation. He must have completed his thirtieth year, must be a resident of the district of the commercial chamber. All the rights and duties of a judicial officer devolve upon him during his official term. Commercial judges are appointed by the executive of the particular state upon motion of the chamber of commerce, for the period of three years, and a reappointment is permissible.

Commercial chambers are established at present in Prussia in twenty-seven places—six of this number at places other than the seats of the land courts. At Berlin there are eight, at Breslau and Cologne four each; and at all other places one only. The number of commercial judges is so distributed that two or four are assigned to each chamber. A like number of substitutes are appointed. The presiding judge is designated by the president of the land court for the period of the business year.

D.—Jurisdiction of the land courts.

The jurisdiction of these courts will be considered under the three heads of civil matters and matters not litigious.

a. Jurisdiction in civil matters.

The jurisdiction of the land courts in civil matters comprehends all civil litigation which is not assigned to the amts courts. They have, without regard to the value of the object, exclusive jurisdiction in the following important matters:

In all claims against the imperial treasury arising out of a certain law (of March 31, 1873) concerning the legal relations of officials of the empire, and in all claims against those officials for undue exercise of official authority, or for violation of duty or the remission of official acts. The civil chambers are also the courts of appeal and "objection" from decisions and rulings in the amts courts in civil cases. Objection (*beschererde*) is an appeal from a ruling or decision in an intermediate matter.

Finally, devolves upon the land court, in case it is the court of the next resort, the duty of determining what court shall be competent, in the event of the hindrance of the court otherwise competent, or of uncertainty as to the jurisdiction with reference to locality; or the duty of establishing a common jurisdiction, if deemed requisite, or of deciding position or negative questions of competency among two or more courts.

b. JURISDICTION IN PENAL MATTERS.

The judge of inquisition is competent to institute and conduct the preliminary examination.

The penal chambers are competent to pronounce those decisions concerning the preliminary examination and its results which are to be rendered by the court, pursuant to the provisions of the imperial code of penal procedure, to decide upon exceptions taken to measures of the judge of inquisition and the amts judge, and to pass upon decisions of the schöffen courts. They also dispose of certain business affairs assigned to them by the penal code above referred to.

The penal chambers are further competent to adjudge as courts of the first instance in the following cases:

1. Upon misdemeanors which do not come under the jurisdiction of the scöhffen courts.
2. Upon those crimes which are punishable with penal servitude, not exceeding five years alone, or in conjunction with other penalties.
3. Upon the crimes of persons who, at the time of the criminal act, have not completed their 18th year.
4. Upon the crime mentioned in § 176, No. 3 of the penal code (immoral conduct with persons under fourteen years of age).
5. Upon grand larceny and petty larceny committed in the third instance.
6. Upon the crimes of receiving and concealing stolen property acquired by wrongful act of another, in the cases of habitual commission, and commission in the third instance.
7. Upon the crime of fraud committed in the third instance.

The penal chambers have exclusive jurisdiction in a number of infractions of provisions of particular imperial laws. These are the following: The law of October 25, 1867, concerning the nationality of merchant vessels; the law of June 11, 1870, concerning stock companies; the law of February 6, 1875, concerning public registration; the bank law of March 14, 1875.

The penal chambers have jurisdiction as courts of the second instance to decide questions of law in the schöffen courts.

The jury courts, finally, have jurisdiction over the crimes which do not come under the competency of the penal chambers of the land courts or of the supreme court of the empire.

VI.

Superior land courts.

The superior land courts are constituted with a president and the requisite number of presidents of senates and judges (the latter are called councilors). Within these courts, civil and penal, senates are formed. The distribution of business, the appointment of the members of the senates, and of substitutes takes place in accordance with the provisions applying to the chambers of the land courts hereinbefore stated. The "presidential college" in the superior land courts consists of the president, of the presidents of the senates, and of the two oldest members. Only regularly appointed judges may, in case of need, be summoned from other courts for service in the superior land courts. The senates of the superior land courts are competent to render decisions when five members, inclusive of the presiding judge, are present.

A. *The superior land courts have jurisdiction in civil litigations—*

1. To decide upon appeal from final decisions of the land courts.
2. To decide upon "objection," to decisions of the land courts.

Finally, devolves upon the superior land court, if it be the court of the next resort, the duty of determining what court shall be competent in the event of the hindrance of the court otherwise competent; or of uncertainty as to the jurisdiction with reference to locality or the duty of establishing a common jurisdiction, if deemed requisite; or of deciding positive or negative questions of competency among two or more courts.

B. *The superior courts have jurisdiction in penal cases—*

1. To revise judgments upon appeal of the penal chambers of the land courts (revision is based only upon a violation of law).

2. To revise judgments in the first instance of those penal chambers, in case the revision is based exclusively upon the violation of a provision of law.

3. To decide upon "objections" to judicial penal decisions in the first instance, in so far as the penal chambers are not competent; and against decisions upon "objection," and upon appeal from the penal chambers.

Upon the superior land court devolves also the duty to assign the investigation and decision of a case to another land court of its district in case the proper land court is hindered; and, further, to pass upon motions arising out of the refusals by state attorneys to prosecute.

VII.

Supreme Court of the Empire.

The supreme court of the empire consists of a president, of seven presidents of senates, and of sixty judges (called councillors), who must have attained their thirty-fifth year and be qualified for the judicial office in one of the states of the confederation. They are appointed by the Emperor upon the motion of the senate (*Bundes rath*) of the empire. If a member has been condemned to a penalty for a dishonorable act, or to deprivation of liberty for a longer period than one year, he may, by plenary resolution of the supreme court, be declared to have forfeited his salary; and in case he has been placed on trial for a crime or misdemeanor, the court may, by such resolution, pronounce his temporary deposition from office. Incarceration upon examination suspends *ipso facto* his functions. Temporary deposition does not affect salary. In case of permanent incapacity arising from physical or mental infirmity, the member is retired with a pension.

In the imperial court, civil and penal senates are constituted, which are competent to decide when seven members, inclusive of the presiding judge, are present. The number of the senates is determined by the chancellor of the empire. At present there are five civil and three penal senates. For the purpose of plenary decisions and the decisions of several senates acting in conjunction, the presence of at least two-thirds of all members, inclusive of the presiding judge, is requisite. The number of members must be an odd one; otherwise the member youngest in service has no vote. The distribution of business among the senates, the appointment of the members of the individual senates and of substitutes, are as in the land courts. The "presidential college" consists of the president, the presidents of senates, and of the four oldest members; at present the college has a membership of thirteen. The co-operation of assistant judges (judges of other courts) is inadmissible.

A. *The imperial court has jurisdiction in civil litigation—*

1. To revise final judgment upon appeal of the superior land courts.

2. To decide upon "objections" to decisions of the superior land courts.

Upon this court devolves further, in case it is the court of next resort, the duty of determining which court shall have jurisdiction in case of the hinderance of the court otherwise competent; or in case of uncertainty as to the jurisdiction of a particular locality; and also to establish a common jurisdiction, and to decide positive or negative questions of competency among two or more courts.

B. *The supreme court has jurisdiction in criminal matters, as follows:*

1. As the court of first and last resort to try and decide cases of high treason and treason to the country, in so far as the crimes are directed against the Emperor or the empire. Upon the first penal senate devolves in these cases the duty of rendering such decisions relating to the examination and its results as are required of the court, by the provisions of the code of penal procedure. Trials are conducted before the united second and third penal senates. The judge of inquisition is appointed for each penal case from among the members of the court, by the president, who may also appoint any member of another German court as judge of inquisition or as a substitute to perform a part of the business of such judge.

2. Also to revise original judgments of the penal chambers, in so far as the revision is based exclusively upon the violation of a law of a particular state, and to revise judgments of the jury courts. Also in case a superior land court is hindered, the duty of assigning the examination and decision of a matter to another such court.

C. *Consular jurisdiction.*—The supreme court has jurisdiction in civil and penal matters upon "objection" or appeal against decisions of a consul or consular court; the civil jurisdiction is conditioned upon the value of the object of contention exceeding 300 marks; it has also jurisdiction in certain matters not litigious under the provisions of the imperial law of 1879 concerning consular jurisdiction.

D. *Patent matters.*—Finally, the supreme court has jurisdiction upon appeal against decisions of the patent office with reference to withdrawing a patent or declaring it invalid.

It is remarked in conclusion that if a civil senate of the supreme court is disposed to depart from an earlier decision of another civil senate or of the united civil senates, upon a question of law, it must submit such question to the latter for decision. This submission must be to the united civil senates, in case a penal senate is disposed to depart from an earlier decision of a penal senate or the united penal senates.

The conduct of business of the imperial court is regulated by rules which are prepared by the *plenum* and require the confirmation of the German Senate.

VIII.

State Attorneyship.

The state attorneyship is represented in every court; in the supreme court by a superior imperial attorney and by one or several imperial attorneys; in the superior land courts, the land courts, and the jury courts, by one or several state attorneys, whose competency shall, however, extend to the preparation for public prosecution of such penal cases as belong to the jurisdiction of others than the schöffen courts.

If the state be represented in a court by several officials, all persons associated with the chief official act as his representatives; while acting for him they are entitled to perform all his offical functions without being required to show any special authority. The first officials of the state attorneyship attached to the superior land courts are entitled to perform at all the courts of their district the functions of state attorney or to assign the performance of such functions to another than the official primarily competent.

The state attorney is in the exercise of his official functions independent of the court. State attorneys do not transact judicial business, nor is any supervision over judges intrusted to them. The presiding judge of the court may, however, in matters which allow of no delay, appoint a substitute to perform a state attorney's functions, in case the latter is hindered. All officers of the court, inclusive of the judges, are required to assume the duties of a substitute in case of necessity.

The local jurisdiction of state attorney officials is co-extensive with that of the court to which they are attached. The subjects of their jurisdiction are mainly penal matters.

Upon the state attorney devolves the duty of instituting the public prosecution upon which judicial investigation is based. In so far as no other course is prescribed by law the state attorney must, when the facts warrant, prosecute for all acts judicially punishable. In but few instances is his exclusive right to prosecute limited by the code of criminal procedure.

The carrying of sentences into effect in all cases except those in which the schöffen courts have decided as courts of the first instance, devolves upon the states attorney of the land court; he further decides as to the suspension and interruption of punishment.

In civil litigation, and in matters not litigious, the state attorney is only called upon to act in some few matters connected with divorce and wardship, and other subjects designated by the civil code of procedure and other laws.

The first officials of the state attorneyship attached to the superior land courts have the official title "superior state attorneys"; the first, attached to the land courts, the official title "first state attorneys"; all other officials of the state attorneyship attached to superior land and land courts, the official title "state attorneys."

The superior imperial attorneys and the imperial attorneys are appointed by the Emperor upon the motion of the German Senate. In Prussia the superior state and state attorneys are appointed by the King. The superior imperial attorney, the superior state attorneys, and the state attorneys are not judicial officials, although only such persons as are qualified for the judicial office are eligible; they are therefore governed, as regards discipline, liability to be transferred, &c., by the principles which obtain for other state officials.

There are some peculiarities connected with the organization of the state attorney offices attached to the amts courts. The appointment of amts attorneys is subject to revocation, and no qualifications for such appointments are prescribed. The business of such office may, by the department of justice of the particular state, be intrusted to a state attorney, or to a court assessor, or to a referendarius, in so far as judicial business of a penal nature may not at the same time have been confided to him. In case this authority is not exercised, the appointment is made by the superior state attorney.

IX.

Arbitration.

Under the provisions of the code of civil procedure parties who have the legal capacity, and who desire to adjust a disputed claim without recourse to law, may agree that it be referred to one or more arbiters for decision. In case the agreement does

not provide for the manner of appointing the arbiters, each party is entitled to appoint one. Women, minors, the deaf and dumb, and persons who have forfeited civil rights of honor may be rejected. The arbiters must hear the parties, and, in so far as it appears to be necessary, investigate the facts upon which the dispute is based. The procedure is regulated in the absence of any agreement by the parties, according to the discretion of the arbiters, who may examine such witnesses and experts as voluntarily appear before them. The arbiters are, however, not competent to swear witnesses, experts, or the parties. If, in their opinion, it becomes necessary to administer an oath, such function is, upon motion of one of the parties, performed by the appropriate regular court, if it deem such course admissible. In case the tribunals consist of several arbiters, the decision is by absolute majority of votes, the agreement of the parties making no other provision. The judgment must bear the date on which it was rendered, be subscribed by the arbiters, served on the parties, and deposited with proof of such service in the office of the appropriate court of law. Such judgment has, as between the parties, the effect of a legal judicial judgment.

This judgment can, however, only be enforced after its sufficiency has, upon motion of one of the parties, been pronounced by a court of law. The judgment of the arbiters can only be contested upon legal grounds, within the period of a month, before the court of law.

The following are the principal grounds upon which a motion that the judgment be annulled may be based:

Upon the ground that the procedure was inadmissible, or that the performance of an illicit act by one of the parties has been adjudged, or that the party was not represented at the proceedings according to law, in so far as such party has not, by express or implied assent, waived the right to make such plea; or that a rightful hearing has not been accorded the party; or that the judgment is not accompanied by a statement of the grounds upon which it was rendered.

The judgment may also be contested upon an allegation of fraud by a party or by an arbiter.

In case no particular amts or land court is named in the agreement of the parties, the amts or land court having the ordinary jurisdiction over the claim is competent for all proceedings subsequent to the decision of the tribunal of arbitration.

The arbitration heretofore considered is entirely voluntary. In Prussia a system of arbitration, or reconciliation, as it is sometimes termed, is established by law, which, in certain matters, is of a different character. Under this system a party to a dispute in civil matters, other than in tort, may, in order to prevent litigation, cause the other party to be summoned to appear with him before a certain arbiter, upon whom the duty devolves of adjusting the claim, if it be possible. The proceedings before this official are much the same as those before the arbitration tribunals herinebefore discussed.

The arbiter is required to enter in a journal the results of the attempts made before him to adjust claims. If a compromise is effected its terms are enforceable at law.

In those matters in tort, in which prosecution for bodily injuries or injuries to character ensues only upon the complaint of the aggrieved party, an unsuccessful attempt to compromise the difficulty before the arbiter must precede prosecution. Proceedings for divorce can only be instituted upon the production of proof that an ineffectual attempt at reconciliation has been made before the pastor of the parties, if they have one, or otherwise before an arbiter. The arbiters, 211 of whom officiate in Berlin alone, are appointed for particular districts by communal representative bodies, and their appointment requires the confirmation of the presidential college of the appropriate land court. Arbiters receive no salaries, and there are no charges made in these tribunals except for copying and actual disbursements. They relieve the courts of law of a vast burden, and their great usefulness from many points of view is generally acknowledged.

The circumstance may be mentioned that the principle of arbitration is honored in a higher and very different sphere in Germany. The Constitution of the German Empire provides, in Article 76, that conflicts among the various States of the Confederation, in so far as they are not of a private nature, are to be disposed of by the Federal Council ("Bundesrath") of the empire, when its action is invoked by a State, and also that the Federal Council shall, when called upon to do so, amicably adjust conflicts concerning a constitution in those states in which the constitution designates no authority for the settlement of such conflicts.

X.

Pay and Pensions.

The salaries of judicial officers and other officials attached to the courts are paid by the individual states in which these courts are situated, and vary in amount. In Prussia these salaries are as follows:

Presidents of courts receive, inclusive of a commutation for official dwellings, and

according to the supposed expensiveness of the city in which the court is situated, amounts varying from 15,800 to 17,000 marks ($1=4\frac{1}{2}$ marks). It is remarked that the same basis of compensation is applied to all officials mentioned under this head.

Presidents of senates receive from 7,500 to 8,700, and other judges receive from 4,800 to 5,700 marks. The superior state attorneys attached to the courts receive from 7,500 to 8,700, and the state attorneys from 2,400 to 3,600 marks.

In the land and amts courts, the president of the land court No. 1, in Berlin (there are two land courts in that city), receives 10,500, and the presidents of all other land courts from 7,500 to 8,700 marks. Land court directors receive from 4,800 to 5,700, and other judges of these courts from 2,400 to 4,200 marks. The first state attorney attached to the land court No. 1, in Berlin, receives 7,500, and the state attorneys attached to all other land courts, from 2,400 to 2,800 marks.

In the supreme court of the empire: The president of this court receives a salary of 27,000 marks; the presidents of senates receive from 15,000 to 16,000, and other judges of the court 12,000 marks. The superior imperial attorney receives 14,000 and other imperial attorneys 12,000 marks.

Every official of the empire, and every Prussian official is entitled to a pension for life who after at least ten years' service, becomes permanently incapacitated for the performance of official duty through bodily disease or bodily or mental weakness. If this incapacity is the consequence of disease, wound, or other injury acquired or received by the official in the performance of his duty, or if, without fault of his own, the incapacity arises therefrom, he becomes entitled to a pension after a shorter period of service. The amount of pension is, after the performance of the tenth year of service, twenty-eightieths of his latest salary, and increases with every additional year of service by one-eightieth until sixty-eightieths or three-fourths of the salary, which is the highest pension paid, is reached.

No. 101.

Mr. Sargent to Mr. Frelinghuysen.

No. 65.] LEGATION OF THE UNITED STATES,
Berlin, October 9, 1882. (Received October 25.)

SIR: I have the honor to transmit a return of so-called military cases of naturalized Americans which have been disposed of since the date of the last report, to September 1, 1882. A number of cases are still pending, including Nos. 88 and 92. Nos. 80 and 81 are only inferentially settled.

These cases do not represent nearly all the work of the legation in such matters. Many cases of threatened or feared oppression by the local authorities are brought to the attention of the legation. The fear in some of these cases may be groundless, but adverse action is often averted by certified copies of the treaty of 1868, and of the circular of the minister of justice, enjoining on local authorities observance of the treaty rights of naturalized Americans. These papers the legation furnishes; and they do excellent work in advising the local authorities of their duty in the premises. The legation is thus relieved, and is able to relieve the imperial foreign office of a crowded calendar of such cases.

I have, &c.,

A. A. SARGENT.

[Inclosure in No. 65.]

REPORT OF MILITARY CASES DISPOSED OF BETWEEN JUNE 30, 1881, AND SEPTEMBER 1, 1882.

71. *Bernhard Gherson*, alias *Benjamin Davis*.—Called in person at the legation in the early part of May, 1881, and said that he was a naturalized American citizen temporarily residing in Posen on account of his father's business and his wife's critical state of health. He likewise stated that he had already resided in Germany more than the

two years allowed by the treaty, and that the police of Wreschen had notified him to leave, but that he was anxious to be allowed to remain until August 1 next, by which time he hoped that his father's business would be wound up and his wife would be strong enough to travel. On the 9th of May the legation applied to the foreign office for the requisite permission for Gherson to prolong his stay, and on the 25th of May the legation was informed, in reply, that Gherson would not, for the present, be interfered with, and on the 13th July, that the desired prolongation of his stay was granted, of which he was duly informed.

72. *Marcus Lewin*.—Was born at Ritschenwalde, Prussia, on the 9th of June, 1856, and emigrated on the 10th July, 1872, to the United States, where he was naturalized on the 22d October, 1878. In April, 1881, he returned to his native town, and on the 4th of May was compelled by the authorities of Rogasen to pay a fine of 180 marks for avoidance of military duty, although he exhibited his American certificate of naturalization and passport. The former document was sent by the burgomaster of Ritschenwalde to the German consul-general at New York for authentication. The legation called the attention of the foreign office to the case on the 27th May, 1881, and in September next was informed in reply that the fine had been remitted by imperial order, of which fact Mr. Lewin, who was by that time in America, was duly informed.

73. *Eugene Eger*.—Was born at Merane, Saxony, May 28, 1856, and emigrated June 17, 1871, to the United States, where he was naturalized October 24, 1878. On the 19th of May, 1881, he returned to Germany with the intention of remaining there six months only. On his arrival at his native place he was arrested and imprisoned for evasion of military duty, but released on payment of 275 marks. The legation called the attention of the foreign office to the case on the 2d June, and on the 8th July was informed that the fine would be remitted, which information was at once conveyed to Mr. Eger, though the consul at Chemnitz. Nothing further has been heard by the legation in regard to the matter. It is therefore presumed that the money was repaid.

74. *William Brink*.—Was born March 9, 1858, at Hückenwagen, near Dusseldorf, Prussia, and emigrated with his mother to the United States in 1872, at the age of fourteen, to join his father, who had emigrated in 1871, and who had been naturalized November 2, 1876, as a citizen of the United States. On June 4, 1881, the father and son returned to Germany on a visit for a few weeks; and on the 18th of the same month the son was arrested by the local authorities of his native town, hurried off to Cologne, and there enrolled in the Seventy-sixth Regiment of Infantry. The legation was informedof the case by the consul at Barmen on the 20th June, and at once wrote to the foreign office. On the 10th of July a reply was received informing the legation that Brink had been released on the 30th of June, of which fact the legation had already been informed by the consul at Barmen. On July 16 an instruction was received from Washington to apply for his release, which was replied to in accordance with the facts. The case was supposed to be ended, when the legation was again apprised by the consul that a fine had been imposed on Brink, and on the 28th of July the foreign office was again written to on the subject, and on the 3d of September a reply was received stating that the fine had been annulled; and the legation finally heard from the consul that Brink had received back his money.

75. *Arnold Oelrich*.—Was born at Elmshorn, Schleswig-Holstein, April 20, 1856, and emigrated in November, 1871, at the age of fifteen years, to the United States, where he was naturalized February 20, 1877. After a residence of over 9 years in the United States, he returned on the 11th June, 1881, to his native place on a visit, and was soon compelled to pay a fine of 204 marks for neglect of military duty, in spite of his exhibiting proofs of American citizenship. The legation intervened for him on June 23, 1881, immediately on hearing of his case; and on the 11th July was informed by the foreign office that his fine would be repaid. The following month the legation was instructed from Washington that Oelrich's brother said the fine had never been repaid, but a correspondence with the consul at Hamburg revealed the fact that this was not so, and that the fine had been duly repaid him, and that he had left for America, which was communicated to the Department of State in dispatch 249 on the 5th September, 1881. Mr. Oelrich subsequently wrote to the legation from America informing it that he was entirely pleased with its successful effort in his behalf.

76. *George Weigand*.—Was born at Philadelphia, November 29, 1860, and was the son of Mr. Philip Weigand, who emigrated to America in 1850, and was naturalized there in October, 1850. George Weigand visited Germany for the first time in 1871, and after traveling some months in Switzerland and France took up his residence in Cologne. On July 24, 1881, he was summoned to do military service in the Twenty-eighth Regiment. On the 6th of July, 1881, the legation addressed a note to the foreign office requesting an investigation of the case and received a preliminary reply on the 9th July. But no final answer having been received up to the 15th of February, 1882, another note was sent to the foreign office, calling attention to the case, which was replied to on the 18th of February, to the effect that Weigand would not

be further molested; this was at once communicated to him through the consul at Cologne and his father's citizen paper returned.

77. *George E. R. Boettcher.*—Was born at Breslau, October 26, 1851, and emigrated in March, 1871, to the United States, where he was naturalized November 4, 1878, after which he became an officer in the American merchant marine. On July 1, 1881, he arrived at Bremerhaven-Geestemünde as first mate of the ship John de Costa, and made a visit to his parents at Breslau. On his return to Geestemünde he was summoned to pay a fine of 195 marks or go to prison. As the local authorities entirely disregarded the consul's intervention, a note was addressed to the foreign office as soon as the case became known to the legation, requesting that orders might be sent by telegraph that Boettcher be not molested, as his ship was to sail in two days. This was done, and Boettcher sailed in his ship at the appointed time. On December 9 the foreign office informed the legation that Boettcher's fine was entirely remitted. This information was transmitted, together with his certificate of naturalization, at once to Mr. Boettcher, through the consul at Bremerhaven.

78. *John B. Bruns.*—Was born at Haren, Prussia, September 3, 1853; left Germany in 1868. As a sailor he was two years at sea. He arrived in the United States in 1870, and was naturalized there in 1876. In February, 1880, he took a passport from the Department of State, and in July, 1881, returned to Germany on a visit. On the 6th of July he was arrested and imprisoned for three days at Meppen; and on the 9th was forced to pay a fine of 200 marks or remain in prison eighteen months longer, although the authorities saw his American papers. The legation, on investigating the case, found that Mr. Bruns' residence in the United States before naturalization had been interrupted by a long interval spent in Germany and elsewhere, and also that during this interval he took out a German passport in Germany. His naturalization seemed therefore contrary to the laws of the United States for such cases, as well as contrary to the terms of the naturalization treaty of 1868 between Germany and the United States. Before intervening, the case was therefore reported to Washington in dispatch No. 235, August 8, 1881, and in response, in instruction No. 257, of the 26th of August, the Department of State disagreed with the legation in its view of the case, and directed intervention for Mr. Bruns. A note was accordingly addressed to the foreign office on the 15th September in his behalf, and on the 11th October a reply was received stating that his fine had been remitted. Of this he was duly informed, and his papers were returned to him December 30, 1881. The interesting point in this case is the construction put upon the term "uninterrupted residence" as required by the laws and treaties of the United States.

79. *Dr. Singruen.*—Was born at Staufen, Baden, December 13, 1852, and emigrated in 1872 to the United States, where he was duly naturalized in Baltimore, September 7, 1877. In the same year he returned to Europe and resided principally in Austria. On the 17th July, 1881, he arrived at his native place in Germany on a visit to his parents. Immediately on his arrival he was arrested for neglect of military duty, and was not released until he had deposited the sum of 190 florins as security for the payment of the fine of 300 marks imposed upon him by the court at Freiburg, in Baden. The authorities finally informed him that as he appeared to be an American citizen this deposit would be returned, but, as no result followed, he appealed to the legation, which, after investigating the case, intervened with the foreign office for him on the 26th of October, 1881. On January 20, 1882, the amount of the fine was received in Austrian money as originally deposited by him, less the trifling costs of the investigation of the case, deducted by the local authorities, though it resulted in his favor. This was at once forwarded to Dr. Singruen, and the receipt duly acknowledged by him.

80. *Benny and Henry Oppenheimer.*—Were born at Washington, in the United States the former on May 22, 1857, and the latter July 6, 1859. They returned with their parents to Germany in October, 1865, and have resided there ever since with them. On July 1, 1881, the elder of them being now twenty-four years old, and the younger sixteen, they were notified by the authorities of Frankfort that they could no longer be allowed to reside there, and that their cases would be reported to the authorities at Weisbaden unless they became German citizens in fourteen days. The legation, having been personally applied to by their parents to intervene for them, addressed a note to the foreign office on November 8, 1881, asking that, as they were native-born American citizens, they be not further molested. On the 13th of June the foreign office informed the legation that the appropriate authorities had been instructed to abstain from all hostile measures against the brothers until the conclusion of the investigation. So long a time having since elapsed, and no further complaint having been made, this case may be regarded as practically settled.

81. *Edward Cordes.*—Was born at Hamburg, August 9, 1853; emigrated November 28, 1872, to the United States, where he resided uninterruptedly over five years, and was naturalized January 4, 1878. In April, 1878, he returned to Pyrmont, in Germany, where he has remained ever since. On March 10, 1881, he received a summons to appear before the amts court at Pyrmont, and in reply to their questions announced his intention to retain his American nationality and to return to America, but requested

permission to remain some months longer, in order to close up his business affairs with his brother. Mr. Cordes represents that he understood that a verbal promise was given to take this request into consideration and to send him a reply; consequently he did not leave at once for America, but went over to England. On May 18 he was sent for again by the amts court, as he supposed, to receive the reply to his request. But to his surprise he was at once taken to Arolsen, and put into the regiment at that place. The legation entered into a correspondence with Mr. Cordes and his brother to ascertain whether it was ever his intention to return to America, and if he would still do so at once if liberated. The replies were so evasive and unsatisfactory that the legation did not feel authorized to intervene, especially as Cordes, having actually resided more than the two years allowed by treaty, was consequently liable to be considered by the German Government to have forfeited his American nationality. On the 26th, November, however, as both brothers promised that Cordes should return at once to America, if liberated, the legation addressed a request to the foreign office asking for his liberation as a favor, as his stay over the two years was, as he supposed, by the permission of the authorities. No reply has ever been received from the foreign office to this note, and a letter to Edward Cordes' brother to know whether Cordes was still in the army or not remained also unanswered.

P. S.—Under this date, October 9, 1882, just as this report is being sent off, comes a letter from Mr. Cordes, stating that he has been discharged from military service, and will return to the United States in eight days.

82. *William Buder.*—Was born at Hochdorf, Wurtemberg, August 10, 1845; emigrated May 25, 1872, at the age of twenty-seven, to the United States, where, after serving five years in the United States Army, he was naturalized October 14, 1878. On the 11th November, 1881, he returned to Germany, and on the 23d of the same month was arrested and taken to prison in Kirchheim, where he was confined in the company of a common criminal, and only released on the 30th. The legation immediately on hearing of the case applied to the foreign office for his release, which was readily granted. By the correspondence subsequently held with the foreign office, it appeared that Buder had not produced any evidence of his American nationality, though in his statement made to the consul he asserted that he had. The case seems to have been finally settled to his satisfaction.

83. *Johannes Blum.*—The attention of the legation was first called to this case by one Hulziger, who, on January 11, 1881, wrote from the United States as the attorney for Johannes Blum, also residing there. In this communication the legation was asked to ascertain why a certain inheritance due Mr. Blum at Harburg had not been delivered over to Mr. Blum's duly accredited agent. In the course of a correspondence with the consul at Hamburg, near which city Harburg is situated, it was ascertained that the inheritance could not be paid over, owing to an attachment placed upon the same by the authorities to secure a contumacial judgment imposed on Mr. Blum for avoidance of military duty. The legation thereupon notified Mr. Blum of that fact, and after receiving back a "military case" form, transmitted to him to be filled in, intervened in his behalf with the foreign office on December 20. On July 6, 1882, the foreign office informed the legation that the fine had been remitted and the attachment removed. The legation at once informed Mr. Blum through his agent of this gratifying result, and advised him how to proceed to secure possession of the inheritance.

84. *Joseph Gruszynski.*—On the 11th of January, 1882, Mr. Joseph Gruszynski wrote to the legation informing it that he was a naturalized citizen of the United States, and asking its intervention to protect him from the payment of a fine of 180 marks for violation of military duty with the alternative of imprisonment. The data furnished in the case not being sufficient, the legation transmitted to him, on the day of the receipt of his complaint, the customary "military case" form to be filled in and returned. On the 16th of January, immediately upon the receipt from Mr. Gruszynski of the needful information, the legation addressed a note to the foreign office in his behalf. On the 19th of January the foreign office informed it in reply that an investigation had been ordered, and on the 26th of that month that the fine had been duly remitted. The legation at once informed Mr. Gruszynski that he need fear no further molestation; and as nothing further has been heard from him, it would seem that all proceedings against him have been discontinued.

85. *Charles Richard Waentig.*—On March 13, 1882, the legation received a letter from Charles R. Waentig written from the United States, in which he informed it that he was a naturalized citizen of the United States, and that a fine for violation of military duty had been imposed upon him by the Saxon authorities, which he begged the legation would have removed. He also wrote that he had instructed a friend in Germany, who had the custody of his papers, to transmit them here. Mr. Waentig's letter containing all needed information, and his papers arriving on the 15th of March the legation on that day submitted his case to the foreign office. Mr. Waentig had emigrated to the United States at the age of eighteen, in 1873, and had been naturalized there on September 28, 1880. In the spring of 1881 he revisited his native place in

Saxony for a few weeks. While there he was informed of the imposition of the fine of 300 marks. He contested the matter in the local courts, but unsuccessfully; and then returned to the United States, and subsequently appealed to this legation. In reponse to its note, the legation was informed by the foreign office on April 19, 1882, that the authorities had been duly instructed to desist from all proceedings against Mr. Waentig. The legation at once conveyed to Mr. Waentig this satisfactory intelligence, and returned him his passport and certificate of naturalization.

86. *John Sens or Sins.*—Instructions from the Department of State, dated January 19 last and received on February 1, following, directed the legation to intervene in behalf of Mr. Sens who had been fined for neglect of military duty. The data furnished the Department by Mr. Sens' agent in the United States proving too meager, the legation addressed itself directly to that gentleman, inclosing the "military case" form to be filled out and returned. The legation then informed the Department of the course it had taken, and its action was subsequently approved.

On March 24 following, the needed information having on that day been received from the United States, the legation submitted the case to the foreign office. The chief facts were the following: Mr. Sens was born in Alsace-Lorraine in 1858, emigrated in March, 1874, to the United States, where he was naturalized and where he still resides. In May, 1881, the land court imposed a fine of 680 marks on him for non-performance of military duty, and his property was attached to secure payment. The legation at once informed the Department of State that it had intervened. On March 27 the foreign office informed the legation that an investigation had been ordered, and on August 25 last that the fine had been remitted and the attachment removed. The legation at once acquainted the Department of State and Mr. Sens' agent with this favorable result of its intervention, anticipating an inquiry as to the progress made in the case, which was subsequently received from the Department. The result in this case was the more gratifying for the reason that Mr. Sens was a native of Alsace-Lorraine, and as affording ground for the belief that the German Government is not now disposed to insist on the ground taken in August, 1880, which excluded naturalized American citizens of Alsace-Lorraine birth from the benefits of the treaties with the German States, regulating nationality since all such cases submitted to and passed upon by the German Government, five in number, have been favorably decided.

87. *Alexander Unterseh.*—Under date of April 4 last, Unterseh informed the legation that he was a naturalized citizen of the United States, complained that he had been threatened by the authorities with enrollment in the army, and requested the legation to intervene in his behalf. On April 6, the day of the receipt his communication, the legation wrote to Unterseh requesting him to furnish it with the information called for in the inclosed "military case" form. Having received this information on the 13th instant, the legation at once intervened for him with the foreign office. The facts it was able to present were the following: he was born at Neudorf February 2, 1851, and emigrated in 1872, at the age of twenty-one, to the United States, where he was naturalized October 20, 1880, returning to Germany on a visit, *as he alleged*, in August, 1881, where he claims to have been threatened as above stated.

In reply to its communication the foreign office informed the legation on April 17 that an investigation of the case had been ordered, and on September 5 following that Unterseh had declared it to be his intention to remain in Germany permanently. Upon the receipt of this note the legation immediately wrote to Unterseh, communicating its contents, and calling his attention to the fact that the declaration he was represented to have made was equivalent to a renunciation of his naturalization under Article 4 of the treaty of February 28, 1868, a copy of which was inclosed to him with the article marked. No answer was received from him, and none was expected, it being pretty evident that he had voluntarily relinquished his American citizenship in order to remain permanently in Germany. On September 25 the legation reported the case fully to the Department of State.

88. *Adolph König* —This case is unfinished.

89. *Henry Bolln.*—An instruction was received from the Department of State on the 27th of April last, directing that an informal enquiry be made at the German foreign office as to whether Mr. Henry Bolln was regarded as on military service in Germany, and whether he could safely revisit that country. Though satisfied that he could safely return, as he had never been enrolled in the German army, the legation informally applied to the foreign office, and has been informed that there is no obstacle in the way of Mr. Bolln revisiting Germany. This information has been conveyed to Mr. Bolln. The principal facts in the case were as follows: Mr. Bolln was born in Schleswig-Holstein in 1274, went before a board of officers at Kiel in 1868, was found qualified for service as a one year volunteer, and was directed to report for service to such regiment as he might select, before October, 1871, or as soon as war should be declared. Without having reported for military service he emigrated in 1869 to the United States, where he was naturalized in March, 1875.

90. *Bernhard Horstmann.*—On May 1 last the legation received a telegram from Colon Horstmann, stating that his son Bernhard, who had emigrated in 1872 to the

United States, where he was naturalized, had been arrested by the military authorities without reason, at Burgsteinfurt, where he was making a visit; the father asked that his immediate release be effected. The legation at once addressed a note to the foreign office in behalf of Mr. Horstmann, and at the same time wrote to his father inclosing a "military case" form to be filled in with further necessary data. On May 4 an answer was received from the father conveying further information in the case, but containing no allusion to the fact that his son was charged with desertion. The additional information thus obtained was at once transmitted to the foreign office, which in a note to this legation, dated the 5th and received the 8th of May, informed it that an investigation had been ordered. On the 8th of May the father wrote to the legation, in a letter received here on May 10, that his son was charged with desertion, but the father urged that the charge was not true. On May 29 a note from the foreign office, dated May 26, was received here, informing the legation that the investigation had resulted in showing that Bernhard Horstmann was properly held as a deserter from the First Westphalian Regiment No. 13, and that he had been sentenced to a fine of 150 marks and to six months' imprisonment for desertion, which action was in accord with the provisions of the treaty of February 22, 1868. On the day of the receipt of this note the legation communicated the result of the investigation to Mr. Horstmann's father, and also to the Department of State, with copies of the entire correspondence.

It would appear also that Mr. Horstmann had also applied directly to the Government at Washington for aid, as a telegram was received here from the Department of State on May 30, directing intervention in the case. The legation, having anticipated the wishes of the Department, informed it by wire on the same day that he was held for desertion, and that the correspondence had already been transmitted to Washington. On June 12 a letter of the 9th of that month was received from Bernhard Horstmann, protesting that he was innocent of any knowledge of being a deserter, and had been informed in the United States by an *agent* that he could safely revisit Germany. The result of the investigation was at once communicated to him in reply, and he was informed that it had been conveyed to his father at an earlier date; and the latter correspondence was on the same day transmitted to the Department of State.

The facts stated by Mr. Horstman in the military case form, and submitted to the foreign office upon intervention in his behalf, were the following: He was born at Hollich, near Burgsteinfurt, Germany, February 25, 1851, and emigrated November 10, 1872, to the United States where he was naturalized in 1881. In February, 1882, he returned to his native place, where he was arrested for desertion on April 29 last.

91. *Otto Schatz.*—On the 24th of May the legation received a telegram from Schatz, stating that he would be put in the military service the next day, and that Mr. Lipke, a member of the German Parliament, would call at the legation with his papers and explain the case. The visit of Mr. Lipke and Mr. Kapp, both members of the Reichstag, did not throw any light on the case or the facts of his enrollment. Schatz followed up his telegram with a letter, dated 24th May, which stated that the authorities had not given the option to him of leaving Germany beyond asking whether he meant to do so, though not giving the date of this inquiry, which it subsequently appeared was as long before as July, 1881, and two years after his return to Germany. At once, on the receipt of this letter, the legation addressed a note to the foreign office, asking that Schatz's case might be investigated, and that he might be released from military service pending the investigation. Schatz was then informed that the legation had intervened for him, and a "military case" form was sent for him to fill out with the particulars of his emigration. In this he stated that he was born in Greussen, December 24, 1854; that he emigrated to America in July, 1872; was naturalized August 24, 1879; returned to Germany June 17, 1879, and intended to go back to the United States in 1882

On June 14 a reply was received from the foreign office, which stated that Schatz had previously returned to Germany in 1878, and that on his second visit in 1879 he had gone into business with his brother in Greussen, and also addressed a direct petition to the Emperor, asking permission to reimmigrate, to become again a Germany citizen, and to be dispensed from actual military service; that he was informed in reply that he was quite at liberty, under the treaty, without permission, to recover his German citizenship, and that no bargain could be made with him as regards military service, which is obligatory; that two years later an admonitory demand was made on him whether he intended to return to America or not; that in reply to this Schatz was understood to signify his intention of leaving, but did not do so. He was therefore finally summoned before a military commission, and as he only protested for family reasons against being enrolled, and did not suggest going to America, or that he still claimed American citizenship, he was, after the usual medical examination, mustered into the Seventy-first Regiment of Infantry. In face of this statement, which seemed to show sufficient consideration, and repeated warnings to Schatz on the part of the military authorities, and a direct offer on his part to become a German citizen, if exempted from military service, taken in connection with his having deliberately overstayed the two years allowed by the treaty, and having gone into

business with his brother, the legation did not feel justified in protesting against the action of the German Government, unless directed to do so by the Department. Accordingly, the whole correspondence was inclosed to the Department, and Schatz was notified that nothing more could be done for him without instructions from the Department. July 19 an instruction from the Department, received August 3, approved of the course of the legation.

92. *Gustav Schumann.*—This case is unfinished.

93. *Louis Lewin.*—On July 17 last, Mr. Lewin called in person at this legation, and made the following statements: He was born at Wreschen, in Prussia, May 15, 1856, and emigrated in May, 1873, at the age of seventeen, to the United States, where he was naturalized April 10, 1882. On May 25 last, he returned to Germany to make a brief visit to his relatives. Lewin was on July 14, following, informed by the local authorities that he must pay 150 marks or suffer one month's imprisonment for violation of military duty. When Lewin protested against such action and appealed to his American citizenship and treaty rights, he was told by the officials that all that made no difference; that officer, however, finally agreed to accept security to be furnished upon demand by the 17th of that month, and discharged Lewin for the time being. The legation advised him to again call the attention of the local authorities at Wreschen to the provisions of the treaty of February 22, 1868, and also to exhibit to them certain decrees furnished him by the legation which were issued in execution of that treaty by the royal Prussian ministers of justice and the interior on the 5th and 6th of July, 1868. This course having been pursued by Lewin, but without any good effect, the local land court judge remarking that the law had been changed, and that he would issue a warrant (*steckbrief*) to arrest Lewin, if not found when wanted, the legation on July 24 presented the above facts to the foreign office, and asked for a speedy discontinuance of hostile proceedings against Mr. Lewin. On July 28 a note was received from the foreign office stating that an investigation had been ordered, and on the 14th of August, following, a second note, in which the legation was informed that the fine had been remitted and that Mr. Lewin would not be further molested. This gratifying intelligence was conveyed to Mr. Lewin through his family at Wreschen, he having in the mean time returned to the United States.

GREAT BRITAIN.

No. 102.

Mr. Lowell to Mr. Frelinghuysen.

No. 300.] LEGATION OF THE UNITED STATES,
London, January 30, 1882. (Received February 13.)

SIR: Referring to Mr. Blaine's instruction No. 285, of the 9th of December last, I have the honor to acquaint you that immediately after its receipt I addressed a letter to Lord Granville, stating the fact of Mr. Dennis H. O'Connor's naturalization as an American citizen, his arrest and imprisonment by the British authorities in Ireland, and the probable result to his health of his continued incarceration. I requested to be informed as to the grounds upon which he had been arrested and imprisoned.

On the 30th of December, Sir J. Pauncefote, in the absence of Lord Granville, informed me that he had referred my inquiries to the proper department of Her Majesty's Government, and to-day I have received a further communication from his lordship stating the grounds of Mr. O'Connor's arrest, and that the lord lieutenant of Ireland would cause inquiry to be made with the view of considering whether the prisoner could now be discharged without danger to the peace of the district.

I inclose a copy of my correspondence with Lord Granville on this subject.

It is proper for me to add that this Dennis O'Connor is the same person about whom I wrote to the Department of State in dispatch No. 194, of the 4th of June last, to which I venture to call your particula attention.

I have, &c.,

J. R. LOWELL.

[Inclosure 1 in No. 300.]

Mr. Lowell to Lord Granville.

LEGATION OF THE UNITED STATES,
London, December 23, 1881.

MY LORD: I have received to-day from Mr. Blaine a dispatch stating that Mr. P. C. O'Connor, of Baltimore, Md., has informed the Department of State that his brother, Mr. Dennis H. O'Connor, a naturalized American citizen, has, without cause, been arrested and imprisoned by the British authorities in Ireland on suspicion of being in sympathy with the Irish National Land League.

Mr. Blaine incloses a copy of the certificate of the naturalization of Dennis H. O'Connor, and also a letter from P. C. O'Connor, above mentioned, by which it appears that the said Dennis went to Ireland about four years ago and engaged in general drapery business in Charleville, in the county of Cork, under the firm name of O'Connor & Molony, and in Kilmarnock, Limerick County, under the firm name of D. H. O'Connor & Co. It is further stated that his incarceration, if continued, may prove fatal, as his health is not good, and may also injure him financially, as he is at the head of the two business establishments, with all his means at present in the hands of strange clerks and salesmen.

Under these circumstances, Mr. Blaine instructs me to bring this subject to the attention of your lordship, with the request that I may be informed as to the grounds upon which Mr. O'Connor was arrested and imprisoned.

I have, &c.,

J. R. LOWELL.

[Inclosure 2 in No. 300.]

Sir Julian Pauncefote to Mr. Lowell.

FOREIGN OFFICE, *December* 30, 1881.

SIR: I have the honor to acknowledge the receipt of your letter of the 23d instant, requesting, on behalf of your government, to be informed as to the grounds upon which Dennis H. O'Connor was arrested and imprisoned by the British authorities in Ireland; and I have the honor to acquaint you, in reply, that I have referred your application to the proper department of Her Majesty's Government.

I have, &c.,

In the absence of Earl Granville,

JULIAN PAUNCEFOTE.

[Inclosure 3 in No. 300.]

Lord Granville to Mr. Lowell.

FOREIGN OFFICE, *January* 26, 1882.

SIR: With reference to my letter of the 30th ultimo, I have the honor to acquaint you that Her Majesty's secretary of state for the home department has forwarded to me a copy of a communication which he has received from the lord lieutenant of Ireland, in which the latter states that Dennis Hayes O'Connor was arrested on the 22d of October last under his excellency's warrant, issued pursuant to the "protection of person and property (Ireland) act, 1881," on the ground that he was reasonably suspected of inciting to intimidation against the payment of rent. His excellency proceeds to state that he has no reason to doubt the propriety of the arrest, but will, however, cause inquiry to be made with the view of considering whether the prisoner could now be discharged without danger to the peace of the district. I shall not fail to communicate to you anything further which I may hear upon the subject.

I have, &c.,

GRANVILLE.

No. 103.

Mr. Frelinghuysen to Mr. Lowell.

No. 313.] DEPARTMENT OF STATE,
Washington, January 31, 1882.

SIR: It has been represented to this department that Mr. Michael Hart, a naturalized American citizen, was arrested without just cause on the 3d instant, in Ireland, under the coercion act, and imprisoned in Clonmel jail, county of Tipperary.

I will thank you to lose no time making inquiries into all the circumstances attending the arrest of Mr. Hart, and to report the result of your investigations to this Department, meanwhile making such representations to the British Government as the facts may be found to justify. Inclosing herewith for your further information the papers described below,

I am, &c.,

FRED. T. FRELINGHUYSEN.

[Inclosure in No. 313.]

Mr. McCorry to Mr. Frelinghuysen.

CATHOLIC HERALD OFFICE,
Lawrence, Mass., January 26, 1882.

SIR: Inclosed herewith find duplicate of naturalization papers of Michael Hart, lately a resident of No. 167 Essex street, Lawrence, Mass., and now a prisoner in Clonmel jail, county Tipperary, Ireland. I also inclose slip from Catholic Herald, dated January 28, 1882 (antedated), containing printed copies of letters from the prisoner and from his sister to relations here, by which you will see the manner and cause of his arrest. (No. 1.)

Michael Hart came to this country at the age of sixteen years. On the first Monday of October, 1878, he was admitted a citizen of the United States, and thereafter had his name entered upon the "check-list," or registry of voters of this city, in confirmation of which I inclose certificate from the city clerk of Lawrence. (No. 2.)

Michael Hart's citizenship is thus established beyond the possibility of a doubt. The fact of his imprisonment is also established, and that he is now and has been guiltless of any infringement or violation of British law can be established to your satisfaction. His arrest and imprisonment being thus wholly without cause, you are now called upon to demand his release.

I am, &c.,

PETER McCORRY,
Editor Catholic Herald.

[Appendix 1 to Mr. McCorry's letter.]

COMMONWEALTH OF MASSACHUSETTS,
Essex, ss:

Be it known, that at the superior court begun and held at Lawrence, within and for county of Essex aforesaid, on the first Monday of October, in the year of our Lord one thousand eight hundred and seventy-eight, personally appeared Michael Hart, a free white person resident in Lawrence, in the county of Essex, and the Commonwealth of Massachusetts, and having proved to the satisfaction of said court that he had complied with all the requisitions of the laws preparatory to his being naturalized, was admitted to become a citizen of the United States of America pursuant to the laws in such cases made and provided.

In testimony whereof I have hereunto set my hand and affixed the seal of said court, at Salem, this twenty-fifth day of January, in the year of our Lord one thousand eight hundred and eighty-two.

[SEAL.] ALFRED A. ABBOTT, *Clerk.*

Witnesses:
JOHN LINEHAN,
JOHN LANE,
Of Lawrence.

[Appendix 2 to Mr. McCorry's letter.—Extract from the Catholic Herald.]

ARREST OF A LAWRENCE MAN IN IRELAND—A NATURALIZED AMERICAN CITIZEN IN A BRITISH PRISON.

A young man named Michael Hart, formerly a resident of Lawrence, Mass., went to Ireland on a visit recently to see his people. While there he was visited by the "peelers," and taken from his bed at 3 o'clock a. m., and with another man, named Cotter, was hurried off to Clonmel jail.

Hart came to this country before he was sixteen years of age. When arrived at the age of twenty-one he took out his naturalization papers and discharged all the duties of a citizen afterward. His name appears on the check-list of Lawrence, showing that he was entitled to vote, and it is known that he exercised his privileges as a citizen.

The following letters explain themselves:

"BALLINTUBBER, *January* 3, 1882.

"MY DEAR ———: I have sad news to tell you. Michael was arrested this morning about 3 o'clock, under the coercion act, and sent to Clonmel jail. You cannot know what trouble we are in. God only knows how we are spending Christmas. No one knows the state of Ballintubber at present. Every one was rushing to our house when it became known that Michael was gone; but he has gone for no shameful crime. He told mother, when going, not to drop a tear for him; that he would come out without a stain. He had a comrade going with him, Edmund Cotter, from Carragane. You may be sure they had a good guard of police; a sub-inspector and two head constables came into the house with a warrant for him; the rest of the police remained outside on the road with two cars. They gave him time to dress. When he went out we were more than surprised to see Ned Cotter outside, and the first word he said was, 'I suppose ——— did not get his rent.' Bridget replied, 'He may not be alive when you come out.' I suppose ——— was the cause of Cotter's arrest, too. Michael began to laugh when he saw Cotter; I suppose there will be more arrests. The people here say they will not pay one halfpenny of rent while Michael is in jail; so it is the worst day's work ——— ever done. Michael told us to let you know that he is an American citizen, and to see about this.

"I remain,

"———."

The following letter is from the prisoner:

"CLONMEL JAIL, *January* 6, 1882.

"DEAR FRIEND: With pleasure I write you all, hoping you are well; I am well, but not as well as you would wish me. I suppose it likely you have heard of the New Year's gift I received from the government here—a warrant to go to jail. I thought you would be anxious to hear from me from inside this new residence. I am in the largest boarding-house now I ever was in, and I don't know how long I will remain here, either. The reason I am here, I know not; but the warrant from ——— said it was for inciting people not to pay their rents. We paid our rent, at least it was paid for us; and you that are in Lawrence know as much about the cause of my arrest as I do myself. * * * The laws here are changed more than those of any other country.

"The American people boast very much about their republic and great men, but when that government allows her citizens to be thrown into British prisons without getting any kind of a trial, I think your great men and fine republic can't say a great deal for themselves. We go to church here on Sundays and holidays inside this heroic spot. * * *

"Yours, ever,

"MICHAEL HART."

[Appendix 3 to Mr. McCorry's letter.]

Mr. Shepard to Mr. McCorry.

CITY CLERK'S OFFICE,
Lawrence, Mass., January 26, 1882.

MY DEAR SIR: In reply to your note of inquiry of even date, would say that Mr. Michael Hart was a qualified voter in this commonwealth in 1878, and he was borne upon the registry of votes in this city for 1878, and is entered as residing at 167 Essex street, this city.

Very truly, yours,

JAS. E. SHEPARD,
City Clerk.

No. 104.

Mr. Lowell to Mr. Frelinghuysen.

No. 305.] LEGATION OF THE UNITED STATES,
London, February 4, 1882. (Received February 16.)

SIR: Referring to my dispatch No. 300, of the 30th ultimo, I have the honor to inclose the copy of a letter which I received this morning, in which Lord Granville states that the lord lieutenant of Ireland has expressed regret that he cannot, consistently with his duty, order the release of Mr. Denis Hayes O'Connor at present.

I have, &c.,

J. R. LOWELL.

[Inclosure in No. 305.]

Lord Granville to Mr. Lowell.

FOREIGN OFFICE, *February* 2, 1882.

SIR: With reference to my letter of the 30th of December last, I have been informed by Her Majesty's secretary of state for the home department that he did not fail to refer to the lord lieutenant of Ireland your communication on the subject of Denis Hayes O'Connor, now in custody under the protection of person and property (Ireland) act, 1881, but that his excellency has expressed his regret that he cannot, consistently with his duty, order the prisoner's release at present.

I have, &c.,

GRANVILLE.

No. 105.

Mr. Davis to Mr. Lowell.

No. 316.] DEPARTMENT OF STATE,
Washington, February 10, 1882.

SIR: I inclose herewith, for your information, copies of correspondence relating to the arrest and imprisonment, by the British authorities, of Mr. Daniel McSweeny, a naturalized American citizen residing in Ireland.

I will thank you to inquire into the circumstances of this case through the proper channels, and to report the result of your investigations to this Department, meanwhile taking any action in reference to the matter which you may deem proper.

I am, &c.,

J. C. BANCROFT DAVIS,
Acting Secretary.

[Inclosure 1 in No. 316.]

Mr. Cuddy to the President.

WEST OAKLAND, *January* 24, 1882.

DEAR SIR: I take the liberty of calling your attention to the inclosed letter, which was published in the San Francisco Examiner yesterday, and beg a careful consideration of its contents.

Some people may think it impertinent and officious, but I believe that *what concerns one citizen concerns all citizens*, no matter how exalted or humble the particular individual interested may be. When, therefore, a citizen of the United States writes a letter to

any member of his family, or even to the public press, seeking and invoking the *protection* of his government, it is not only the right of any citizen to interest himself in his behalf, but also it is his duty. No second appeal was made to President Pierce in the case of citizen Kotza, who was arrested and imprisoned by the Austrian authorities. The question then propounded, "Do you or do you not respect the treaty wherein you relinquish all claim and control over subjects who have become American citizens?" should now be propounded anew to Great Britain, not only in the instance to which your excellency's attention is herewith called, but likewise to any other citizens who are now illegally deprived of that liberty which is guaranteed to all citizens of the United States in Great Britain.

"Suspicion" or "probability" has no standing in international law or treaties. The offense *must be actual* and must have been committed *after* the law was enacted under which they have been arrested As I understand the laws of our country, there is no *distinction* or *difference* between a native or a foreign-born citizen, with the exception of the non-eligibility of the foreign-born to the office of President or Vice-President; in all other respects they are equal. Therefore in this case Mr. McSweeny is entitled to the same protection as if he was General Grant. What could or can be done for General Grant under like circumstances can likewise be done for Mr. McSweeny. One is a native citizen, the other a foreign-born citizen. Therefore, I earnestly pray you to exert all the powers of the government towards a speedy release of Mr. McSweeny and all other American citizens now illegally languishing in British dungeons.

With great respect, &c.,

JOHN CUDDY.

[Inclosure 2 in No. 316.]

Mr. Berry to Mr. Frelinghuysen.

HOUSE OF REPRESENTATIVES,
Washington, D. C., February 6, 1882. (Received February 8.)

DEAR SIR: Inclosed is a letter of Daniel McSweeny, formerly a resident of California, but now in Dundalk jail, Ireland. The letter is addressed to his daughter now living in San Francisco.

His seems a hard case, and even were he justly imprisoned, he certainly is entitled to humane treatment. I call your special attention to the letter.

The appeals of his personal friends in California to me must be my excuse for thus addressing you.

Yours, respectfully,

C. P. BERRY.

[Inclosure 3 in No. 316.—Extract from the San Francisco Examiner.]

BRITISH TYRANNY—AN OLD CALIFORNIAN IMPRISONED IN IRELAND—A GRAPHIC LETTER FROM D. M'SWEENY—A "SUSPECT"—BLAINE AND LOWELL'S INDIFFERENCE.

The following letter will be found peculiarly interesting at the present juncture by the readers of the Examiner, especially those of Irish birth or extraction. The writer, Daniel McSweeny, was for many years a well-known and esteemed resident of this city, doing business at the corner of Ninth and Howard streets, where he was engaged in the cattle trade. Some six years since, with his family, he returned to Ireland, where he purchased some property. When the Land League was formed, as might be expected, McSweeny warmly espoused the cause, and was a hearty worker on its behalf. This appears to have drawn on his devoted head the vengeance of the British Government. About six months ago he was arrested and confined in Dundalk jail, where he now is, and from which his letter is indited. Mr. McSweeny has a large family, six of his children being with their mother in Ireland, and two are now residents of San Francisco. Mrs. McSweeny is quite ailing, and the distress of mind caused by her husband's unjust imprisonment is rapidly undermining her health. The many friends of Mr. McSweeny will, under these circumstances, read his letter with mingled feelings of grief and indignation. It will be seen that it is addressed to his daughter, Miss Mamie McSweeny, who is at present residing in this city:

"DUNDALK JAIL, *December* 12, 1881.

"MY DEAR MAMIE: You must excuse me for not answering your last two letters sooner. Since the winter set in I was unable, owing to the severe cold in this dungeon, to sit still long enough to write even a few lines. I have to keep moving about continually in my narrow space to keep from freezing. You must know how dreadful it is to be locked up eighteen hours a day in this cold, damp climate, without any fire,

and, worse still, we are compelled to stand or walk about daily for five hours in the open air, in a damp, muddy yard, ankle-deep in water, and then return to our cold cells, trembling with cold. It requires a strong constitution to stand it long.

"I fear many of our brave fellows will succumb before the winter is over. As I was only sentenced for sixteen months, I thought at first I might live it out; but you know I was in delicate health when I was arrested, being barely able to move about after a severe attack of sickness. All efforts on the part of your mother and all our friends failed to discover the cause of my arrest. I appealed to Mr. Lowell, United States minister at London, for protection, but he answered that it is absurd for a naturalized citizen of the United States to claim protection. He says that even an American citizen could only have recourse to an appeal to the courtesy of the British Government to be released. He added, in a later communication, that the British Government refused to give him any information about the charge against me, and that they snubbed him.

"Your mother wrote to Mr. Blaine about my case, but that gentleman did not deign even a reply. I heard nothing whatever from him.

"About a couple of weeks ago I saw in the English papers a report of his speech in Philadelphia, wherein he states that he is more loyal to Queen Victoria than any British subject. So it would appear that we appealed to the wrong man. I am now in jail going on seven months, charged with no crime, and not even a shadow of suspicion that I violated any law; and when our American minister asks a civil question about me he is snubbed, insulted, and his flag trampled on; but he does not appear to make much fuss about it, and the American Government takes no notice of the question any more than the King of the Sandwich Islands would. Truly, it is rather an awkward position for me. I swore allegiance to the United States, renounced my allegiance to all kings, princes, or foreign potentates forever; but most particularly to Queen Victoria, of whom it was alleged I was a subject, but which I deny; but I went through the form lest she might claim me. I have in my possession a very nice document, with the proud American eagle perched on it, purporting to be a certificate of American citizenship.

"The American Government will not recognize me. I have no claim on France, or on Russia. I have no country or government to raise its voice, while England, slowly but surely, is putting me to death; but death itself would be preferable to this torture.

"So you see now what the once proud title of American amounts to. But it is a question that should be settled. Millions in the United States should be interested in my fate, lest it might be their misfortune some day to visit their native home and find themselves cast into a dungeon and put to death without trial by judge or jury. It matters little how the question is settled so far as my case is concerned. It will not take many more days in this dungeon to settle it. Your mother, of course, will try and make her way to California with the children again. Our property will be confiscated.

"The landlord magistrates in our district have raised the poor rate to 18 per cent. on the assessed valuation of our property, while on their own it was only 2½ per cent. but they have the resources of civilization at their backs.

"There are now fifty suspects in this jail, some of whom are among the most reputable men in their respective districts. The charge against the most of them is, 'preventing people from doing what they had a legal right to do, namely, to pay no rents.' It looks so funny to see on their cell doors, in large letters, 'No rent.' We have one man from Dublin whose father died a few days ago; he applied to the authorities to see his father buried, but they answered that they 'could not see the way to grant his request.' And this young man does not know what he was arrested for.

"Give my kindest regards to all my old California friends.

"Your fond father,

"D. McSWEENY."

No. 106.

Mr. Davis to Mr. Lowell.

No. 317.] DEPARTMENT OF STATE,
Washington, February 10, 1882.

SIR: I inclose herewith for your information a copy of a resolution of the House of Representatives requesting the President to furnish the information therein specified concerning the arrest and imprisonment of American citizens by the British Government.

In order that this Department may be enabled to supply the information desired by the House of Representatives, I will thank you to submit to me a full and accurate report on the subject with as little delay as practicable.

I am, &c.,

J. C. BANCROFT DAVIS,
Acting Secretary.

[Inclosure in No. 317.]

House resolution of January 31, 1882.

FORTY-SEVENTH CONGRESS, FIRST SESSION.

CONGRESS OF THE UNITED STATES,
IN THE HOUSE OF REPRESENTATIVES,
January 31, 1882.

Resolved, That the President be requested to obtain a list of all American citizens, naturalized or native-born, under arrest or imprisonment by authority of the British Government, with a statement of the cause or causes of such arrest and imprisonment, and especially such of said citizens as may have been arrested and imprisoned under the suspension of the habeas corpus in Ireland, and, if not incompatible with the public interest, that he communicate such information, when received, to this House, together with all correspondence now on file in the Department of State relating to any existing arrest and imprisonment of citizens as aforesaid.

Attest:

EDWARD MCPHERSON,
Clerk.

No. 107.

Mr. Lowell to Mr. Frelinghuysen.

[Extract.]

No. 322.] LEGATION OF THE UNITED STATES,
London, February 24, 1882. (Received March 13.)

SIR: I have the honor to acknowledge the receipt of two instructions Nos. 316 and 317 of the 10th instant, in relation to the arrest and imprisonment of American citizens by the British Government; the first in regard to the case of Mr. McSweeny, and the second, requesting me to submit a full and accurate report upon the general subject, in obedience to a resolution of the House of Representatives.

I beg to say in reply that I have ordered copies to be made of such parts of my correspondence respecting these matters as have not already been transmitted to the Department of State, and that I shall forward such copies to you so soon as they shall be finished, with such other information as I may have obtained.

* * * * * * *

I have, &c.,

J. R. LOWELL.

No. 108.

Mr. Frelinghuysen to Mr. Lowell.

No. 323.] DEPARTMENT OF STATE,
Washington, February 28, 1882.

SIR: I am informed by Mr. Wallace that Lord Granville has kindly authorized Her Majesty's consuls in the Ottoman dominions to continue

to give such friendly assistance and support to American citizens as they have been in the habit of giving in places where no American consular authority resides.

I will thank you to take an early opportunity to express to Lord Granville the President's grateful sense of this act of courtesy, and to assure him that it will give satisfaction, relief, and a sense of security to many excellent and self-sacrificing citizens of the United States.

I am, &c.,

FRED'K T. FRELINGHUYSEN.

No. 109.

Mr. Frelinghuysen to Mr. Lowell.

[Telegram.]

DEPARTMENT OF STATE,
Washington, March 3, 1882.

[States that the cases of our citizens under arrest in Ireland is the occasion of inquiry in the House of Representatives, and instructs Mr. Lowell to use all diligence in regard to the late cases, especially of Hart and McSweeny, and to report his action by cable.]

No. 110.

Mr. Frelinghuysen to Mr. Lowell.

[Telegram.]

DEPARTMENT OF STATE,
Washington, March 4, 1882.

[The Secretary of State refers to the cases of O'Connor, Hart, McSweeny, Walsh, McEnery, and D'Alton, and directs Mr. Lowell to inform the British Government that the President hopes that, without discussing the applicability of the existing coercive statute to citizens of the United States, the lord lieutenant of Ireland will be instructed, under the first section of the act, to exercise the discretionary powers conferred thereby in these and all cases of imprisoned Americans by ordering prompt trials.]

No. 111.

Mr. Lowell to Mr. Frelinghuysen.

[Telegram.]

LEGATION OF THE UNITED STATES,
London, March 4, 1882.

[Reports his action in McSweeny's case. On 10th June, 1881, Mr. Lowell instructed the vice-consul at Belfast to ascertain the cause of

the arrest, and, if innocent, to present the matter in the competent quarter, and ask that McSweeny be released or brought to trial. The same day Mr. Lowell asked Lord Granville to furnish particulars in the case. The Irish under-secretary at Dublin meanwhile informed the vice-consul at Belfast that the prisoner was reasonably suspected of inciting persons to assemble unlawfully and commit riot and assault. No further means of ascertaining the justice of the accusation were open to the vice-consul. Later, on the 29th of June, Lord Granville informed Mr. Lowell that, irrespective of the nationality of the arrested parties, whether native or alien, in no case could information be given beyond the statement of the warrant of arrest. Mr. McSweeny having asserted his innocence, Mr. Lowell communicated this circumstance unofficially on the 8th of July, and asked that the case might be considered favorably. Mr. Lowell was thereupon distinctly assured that McSweeny could not be discharged from custody, his conduct having brought him under the statute.

In the case of Hart, the vice-consul at Queenstown was told by the inspector of police that Hart had incited to non-payment of rent, and was a dangerous, good-for-nothing, troublesome character, who was perhaps involved in more serious matters than those which led to his arrest. The vice-consul was informed by a brother of the prisoner that the latter would not subscribe to an undertaking to conduct himself according to law if he were set at liberty.

Mr. Lowell adds his belief that both of the prisoners are no more innocent than the majority of those under arrest, and promises full statements with copies of all papers by mail.]

No. 112.

Mr. Lowell to Mr. Frelinghuysen.

[Telegram.]

LEGATION OF THE UNITED STATES,
London, March 7, 1882.

[Mr. Lowell reports that the instructions in Mr. Frelinghuysen's dispatch of March 4, 1882, have been obeyed, and that Earl Granville has informed him that the matter will have immediate attention.]

No. 113.

Mr. Lowell to Mr. Frelinghuysen.

[Extract.]

No. 331.] LEGATION OF THE UNITED STATES,
London, March 14, 1882. (Received March 27.)

SIR: Referring to Mr. Davis' Nos. 316 and 317 of the 10th of February last, and my No. 322 of the 24th of that month, I have the honor to acquaint you that as I stated in that dispatch the information required by the resolution of the House of Representatives is so comprehensive

that it will be impossible to furnish it with any degree of completeness until after considerable delay.

* * * * * * *

I presume, however, that what is chiefly desired by the House is information as to the arrest and imprisonment of American citizens in Ireland under what is commonly called the "coercion act." And I propose in this dispatch to transmit so much of this information as has come to my knowledge with a copy of the correspondence on the subject.

The act entitled "An act for the better protection of person and property in Ireland," became a law on the 2d day of March 1881. Its most important provision is contained in the first paragraph of the first section, which enacts that:

> Any person who is declared by warrant of the lord lieutenant to be reasonably suspected of having at any time since the 30th day of September, 1880, been guilty, as principal or accessory, of high treason, treason-felony, or treasonable practices wherever committed, or of any crime punishable by law committed at any time since the 30th day of September, 1880, in a prescribed district, being an act of violence or intimidation, or the inciting to an act of violence or intimidation, and tending to interfere with or disturb the maintenance of law and order, may be arrested in any part of Ireland and legally detained during the continuance of this act in such prison in Ireland as may, from time to time, be directed by the lord lieutenant, without bail or main-prize; and shall not be discharged or tried by any court without the direction of the lord lieutenant, and every such warrant shall, for the purposes of this act, be conclusive evidence of all matters therein contained, and of the jurisdiction to issue and execute such warrant, and of the legality of the arrest and detention of the person mentioned in such warrant.

The remaining paragraphs and sections relate to the form of the warrant, the treatment of arrested persons, and other particulars for carrying out the provisions of the act and limiting its operation to the 30th day of September, 1882.

It is unnecessary to show that this law is arbitrary and severe and contrary to the spirit and fundamental principles of the British constitution. This is admitted by all, and by none more readily than by the government which framed it and the large majority in Parliament which enacted it. But they assert that the condition of Ireland was such that nothing short of an extreme measure like this could meet the difficulty.

* * * * * * *

I proceed now to give an account of all the cases of arrests in Ireland, in respect to which my intervention has been requested.

As early as the 12th of February, 1881, before the "coercion act" became a law, Mr. M. B. Fogarty, of Knockelly, addressed to me a letter stating he had been imprisoned for two months and fined because, as he averred, he chanced to be in the house of his cousin the previous May, when the sheriff came to evict her. He had then been released. I wrote him on the 15th of February, 1881, requesting him to send me his naturalization papers and the report of his trial. On the 22d he sent me his naturalization papers and certain extracts from newspapers, but no report of his trial at the assizes.

It appeared from the magisterial investigation that Fogarty with others was in the house "at Kilburry, resisting the retaking of possession by the sheriff."

I wrote him on the 24th that his being an American citizen did not protect him from the consequences of breaking the laws of the country in which he was residing and that the right to a "mixed jury" which he had suggested, if any such institution existed in Ireland, did not apply to his case. I stated also I should not intervene except under

the directions of the Department of State. I inclose a copy of this letter.

On the 6th of March, 1881, I received a further letter from Mr. Fogarty inquiring what would be my action in case of his arrest under the "coercion act." I replied to him on the 8th of March that whenever this contingency should arise I should give the matter my best attention, but that it would be impossible for me to state my opinion upon a hypothetical case. I also forward a copy of this letter. This is the last communication I have had from this gentleman.

The next case was that of Mr. Michael Boyton, about which I have given full information to the Department of State in my Nos. 140, of the 12th of March; 144, of the 21st of March; 147, of the 25th of March; and 154, of the 7th of April, 1881, forwarding a copy of all the correspondence.

My action in this case was fully approved by the Department in its Nos. 138, of the 31st of March, and 166, of the 26th of May, 1881.

The case that followed was that of Mr. Joseph B. Walsh, which was first presented to me by Mr. Barrows, the consul at Dublin, on the 21st of April, 1881, and afterwards by the Department of State. My proceedings and correspondence in this matter were fully reported in my dispatches Nos. 193, of the 4th of June; 205, of 18th of June, and 218, of 15th of July, 1881.

Mr. Hoppin's dispatch, No. 220, of the 14th November, 1881, announced the release of Mr. Walsh, and forwarded a copy of his discharge.

On the 26th of May, 1881, the Department of State, by a telegram, called my attention to the case of Joseph D'Alton, or Dalton, and afterwards by Mr. Blaine's dispatch, No. 168, of the 27th of May, 1881. I communicated my action in this matter in my dispatches Nos. 193, of the 4th of June; 205, of the 18th of June, and 218, of the 15th of July, 1881.

On the 8th of June, 1881, Mr. William Simms, the vice-consul at Belfast, wrote to me in relation to Daniel McSweeney, or Sweeney, who was confined in Dundalk prison, inclosing a letter from Mr. John Cormick, another from McSweeney, and the latter's naturalization certificate. I received these documents on the 10th of June, and on the same day I wrote to Mr. Sims, requesting him to "examine closely into the grounds" of Sweeney's arrest, and if it should appear to him that he was innocent of the charge, to make a representation to the authorities and request his release or immediate trial. On the same day I wrote to Lord Granville, requesting to be informed of the particulars of the charge against McSweeney, and stating the latter's assertion of his entire innocence.

On the 17th of June Lord Granville informed me that this case had been referred to the proper department of Her Majesty's Government. On the 21st of June Mr. Sims sent to me a letter from Mr. Burke, the under-secretary at Dublin castle, stating the grounds of McSweeney's arrest. I acknowledged the receipt of this on the 24th of June.

On the 28th of June Lord Granville informed me that Her Majesty's Government, in McSweeney's case as well as in that of Mr. Walsh, above mentioned, could not recognize any distinction between the liability of foreign citizens and British subjects in respect of unlawful acts committed within the limits of British jurisdiction. I sent a copy of this letter in my dispatch No. 218 of the 15th of July, with the correspondence relating to Walsh's case.

On the 14th of July McSweeney wrote me a further communication

from Dundalk jail, which Mr. Simms forwarded to me in his letter of the 16th, and which I received on the 18th of that month. Immediately upon the reception of this I addressed a private and unofficial communication to a gentleman connected with Her Majesty's Government, upon whose intelligence and sense of justice I could entirely rely, repeating McSweeney's assertion, that so far from using language inciting to riot, he had always advised the people whom he addressed to keep within the limits of the law, and I inquired whether if this were true it would not be possible to give a favorable consideration to his case. In answer to this I was confidentially advised that McSweeney's conduct had clearly brought him within the provisions of the "coercion act," and that it was not in the power of Her Majesty's Government to grant his release.

On the 17th of September, McSweeney wrote me again, demanding my intervention in his behalf. As I had received no information from the vice-consul, whom I had desired to examine closely into the grounds of his arrest, confirming his own statements of his innocence, and as it seemed to me clear, from the best examination I had been able to give to the matter, and even from his own admissions, that his case was not an exceptional one, but that it resembled, in its essential particulars, that of the majority of British subjects arrested under the act, I wrote him on the 22d of September, declining to interfere further in his favor. He wrote me another letter on the 27th of September, to which I replied, and another on the 13th of October last, to which I did not think proper to make any answer. I herewith inclose a copy of this correspondence.

On the 17th day of June, 1881, Consul-General Badeau sent me a communication from Mr. E. P. Brooks, the consul at Cork, dated on the 15th of that month, covering a letter from Mr. Henry O'Mahoney, of Ballydehob, in the county of Cork, of the 12th of June, stating his imprisonment at Limerick jail, under the "coercion act," and requesting intervention to procure his release as a naturalized citizen of the United States, a certificate of such naturalization being forwarded with the papers.

On the 22d of June, Mr. Brooks wrote to the consul-general additional facts in relation to this case; and on the 15th of July, Mr. O'Mahoney addressed me directly, asking my intervention in his favor. On the 19th of July, the day of the receipt of this letter, I sent my answer, stating my views, generally, in respect to the rights of American citizens arrested under the "coercion act."

On the 21st of July, Mr. Brooks and Mr. O'Mahoney both wrote again, repeating the latter's request for my intervention.

On the 3d of August, I wrote to Mr. Brooks, the consul at Cork, referring in particular to the case of Mr. McEnery, to be afterwards mentioned, but by implication to this request of Mr. O'Mahoney, and stating my inability to grant the desired favor.

A copy of this letter was sent to the Department of State with my dispatch No. 235, of the 11th of August, 1881. I inclose herewith a copy of the other letters relating to this case of Mr. O'Mahoney.

In the matter of Mr. McEnery, above alluded to, Mr. Brooks, the consul at Cork, wrote to me on the 30th of July, as to the imprisonment of that gentleman in Limerick jail, inclosing his naturalization papers, and requesting my intervention. On the 3d of August, the day this letter was received, I sent the reply which I have hereinabove mentioned, declining to make any application on Mr. McEnery's behalf. I communicated this correspondence to the Department in my No. 235 of

the 11th of August last, in which I expressed the hope that my action in this case would meet with the approbation of the Department. I beg to say that I have not received any intimation that it was not so approved.

On the 29th of October last Mr. J. R. Tinsley, the United States consular agent at Limerick, addressed a letter to Mr. Barrows, the consul at Dublin, inclosing a communication for Mr. James F. Daly, who was imprisoned in Limerick jail under the "coercion act," and also his certificate of naturalization, and requesting that the minister should demand for him a trial or speedy release. Mr. Barrows asked for instructions in this matter. Mr. Hoppin, who was at the time in charge of the legation, wrote Mr. Barrows, on the 2d of November last, that if Mr. Daly could show that the acts for which he had been imprisoned were of less gravity and importance than those for which any British subjects had been arrested, and if his incarceration had been due to mistake or misapprehension, Mr. Hoppin would take pleasure in bringing his case to the attention of Her Majesty's Government, and asking for his speedy release.

No further communication in relation to this arrest has been received at this legation. I inclose a copy of the material part of this correspondence.

On the 9th of December last Mr. Blaine, by his dispatch No. 285, instructed me to bring the subject of the arrest of Mr. Dennis H. O'Connor to the attention of the foreign office, and, upon being informed as to the facts of the case, to take such action, in my discretion, as might seem to be called for by the circumstances.

I received this dispatch on the 23d of December, and on the same day I addressed a note to Lord Granville, to which his lordship replied on the 30th, stating that the matter had been referred to the proper department of the government.

On the 26th of January last Lord Granville wrote to me that the government would consider whether O'Connor could be discharged. A copy of these notes of the 23d of December and 26th of January was sent on the 30th of January, 1882, with my dispatch No. 300 of that date.

On the 2d of February last I received a further note from Lord Granville, acquainting me that Mr. O'Connor could not safely be released at present. I forwarded a copy of this communication with my No. 305 of the 4th of February.

On the 30th of January, 1882, Mr. Barrows, the consul at Dublin, addressed me in relation to the case of Mr. James White, and on the 31st in relation to that of Mr. Philip O'Sullivan. I answered these letters on the 2d of February last, and herewith forward a copy of the correspondence.

The last of these cases which have been brought to my attention was that of Mr. Michael Hart, which was communicated to me by Mr. George B. Dawson, the vice consul at Queenstown, through the consul-general at London. Mr. Hart did not at that time ask my intervention, but simply desired that the fact of his arrest should be noted. I replied to Mr. Dawson's letter on the 3d day of February. On the 7th of that month Mr. Merrett transmitted to me a formal application from Mr. Hart for my interference on his behalf. I replied to this letter on the 10th of February.

On the 13th of February last I received your instruction, No. 313, of the 3d of January, in relation to this arrest, and on the 14th of February I requested Mr. Dawson, the vice-consul at Queenstown, to make par-

ticular inquiries in regard to this matter; and on the 23d of February I received two letters from that gentleman, dated on the 17th and 18th, accompanied by communications from Mr. Hart himself. Mr. Dawson wrote me again on the 23d, covering a letter of the 22d of February from Mr. Hart. I forward a copy of this correspondence.

On the 7th of February Mr. Consul Barrows wrote to me from Dublin inquiring as to his future action in similar cases, and asking my instructions. I herewith transmit a copy of my reply.

On the 23d of February I received Mr. Davis's instructions, Nos. 316 and 317, of the 10th of that month, the first directing me to inquire into the circumstances of Mr. McSweeney's arrest, and the second inclosing a copy of a resolution of the House of Representatives on the general subject.

I have already referred to these instructions, and to my action under the same, in the beginning of the present communication, and in my dispatch No. 322.

On the 3d of the present month I received your telegram, instructing me to report immediately in relation to the cases of Messrs. McSweeney and Hart; and on the 4th instant I cabled my reply, stating the action I had already taken in regard to these gentlemen.

On the 5th instant I received a further telegram from you, directing me to say to Lord Granville that, without discussing whether the provisions of the force act can be applied to American citizens, the President hopes the lord-lieutenant of Ireland will be instructed to exercise the powers intrusted to him by the first section to order early trials in the cases of O'Connor, Hart, McSweeney, Walsh, McEnery, and Dalton, and all other cases in which Americans may be arrested.

I immediately communicated this instruction to Lord Granville, and on the 7th instant I received his reply, dated on the 6th, stating that the subject should receive the immediate attention of Her Majesty's Government. I herewith inclose a copy of this correspondence. I have up to this date had no further communication from Lord Granville in relation to this matter.

* * * * * * *

In concluding this dispatch I may be permitted to add that I have had repeated assurances from the highest authority that there would be great reluctance in arresting a naturalized citizen of the United States were he known to be such. But it is seldom known, and those already arrested have acted in all respects as if they were Irishmen, sometimes engaged in trade, sometimes in farming, and sometimes filling positions in the local government. This, I think, is illustrated by a phrase in one of Mr. Hart's letters, to the effect that he never called himself an American. He endeavors, it is true, in a subsequent letter, to explain this away as meaning *American born;* but it is obviously absurd that a man living in his native village should need to make any such explanation. Naturalized Irishmen seem entirely to misconceive the process through which they have passed in assuming American citizenship, looking upon themselves as Irishmen who have acquired a right to American protection, rather than as Americans who have renounced a claim to Irish nationality.

Their view of the case is indicated in a question I made in a former dispatch, No. 132, of the 26th of February, 1881, from a published letter of Mr. C. S. Parnell, in which he speaks of "the American people" and "the Irish nation in America."

I have, &c.,

J. R. LOWELL.

[Inclosure 1 in No. 331.]

Mr. Lowell to Lord Granville.

LEGATION OF THE UNITED STATES,
London, February 24, 1882.

MY LORD: I have the honor to acquaint you that the Acting Secretary of State has transmitted to me a resolution of the House of Representatives, a copy of which I inclose herewith, by which the President is requested to furnish the information therein specified concerning the arrest and imprisonment of American citizens by the British Government.

The Acting Secretary desires me to submit to him a full and accurate report on the subject with as little delay as practicable.

As there are many such cases of arrest and imprisonment, of which I cannot conveniently obtain the particulars, excepting through the kind offices of your lordship, I respectfully ask that you will cause me to be furnished with the information requested by the resolution so far as the same may be properly afforded by Her Majesty's Government.

I have, &c.,

J. R. LOWELL.

[Inclosure 2 in No. 331.]

Lord Granville to Mr. Lowell.

FOREIGN OFFICE, *March* 7, 1882.

SIR: I have the honor to acknowledge the receipt of your letter of the 24th ultimo, forwarding a copy of a resolution of the United States House of Representatives, calling for information concerning the arrest and imprisonment of American citizens by the British Government.

In reply I beg leave to acquaint you that this matter has been referred to the proper department of Her Majesty's Government.

I have, &c.,

GRANVILLE.

[Inclosure 3 in No. 331.]

Mr. Lowell to Mr. Fogarty.

LEGATION OF THE UNITED STATES,
February 24, 1881.

SIR: I have received your letter of the 22d instant, with the certificate of naturalization, and the extracts from the newspapers, all of which I reinclose herewith.

You do not send me any report of your trial at the assizes, but it appears from the "magisterial investigation" that you were with others in the house in Killbury "resisting the retaking of possession by the subsheriff."

The fact that you are an American citizen does not protect you from the consequences of breaking the laws of this country, and the right to a "mixed jury," if any such institution still exists in Ireland, does not apply in your case.

This is not an occasion, in my opinion, in which I can properly intervene, excepting under instructions from the Department of State.

I am, &c.,

J. R. LOWELL.

[Inclosure 4 in No. 331.]

Mr. Lowell to Mr. Fogarty.

LEGATION OF THE UNITED STATES,
March 8, 1881.

SIR: I have the honor to acknowledge the receipt of your letter of the 6th of March, inquiring what my course would be in case you should be arrested under the coercion act; I have to say in reply that whenever such a contingency should arise, and I should be consulted on the subject, I would give to it my best consideration, and do whatever my duty might require. It would be manifestly improper for me to express any opinion upon a hypothetical case.

I am,

J. R. LOWELL.

[Inclosure 5 in No. 331.]

Mr. Simms to Mr. Lowell.

UNITED STATES CONSULATE,
Belfast, Ireland, June 8, 1881.

SIR: I have the honor to inclose you papers in the case of one Daniel McSweeney, a citizen of the United States, who has been arrested, and is now in prison at Dundalk, in the county of Louth, Ireland, on a warrant issued by the lord lieutenant of Ireland, charging the said Mr. McSweeney with inciting persons to unlawfully assemble and to commit riot and assault. I also inclose letter of Mr. John Cormick, Dundalk. I would thank you to advise me at once in the matter. In reply to Mr. Cormick's letter, I merely stated that the whole case had been referred to you.

I am, sir, your obedient servant,

WILLIAMS SIMMS,
Vice Consul.

[Inclosure 6 in No. 331.]

Mr. McSweeney to Mr. Lowell.

DUNDALK JAIL, *June* 7, 1881.

SIR: I am an American citizen, having resided twenty-five years in the United States, twenty of which I spent in San Francisco, Cal. During that time I never was either charged, accused, or even suspected of any crime, nor in fact never was accused of any crime in my life, until on the 2d of the present month my house was surrounded by an armed force and I was forcibly dragged from the bosom of my family and lodged in jail.

The charge against me now is, inciting persons to unlawfully assemble and commit riot and assault. Now, there was no unlawful assembly, no riot or assault committed in the district from which I was arrested, neither was there any incitement to commit such. The government kindly furnished me with a short-hand reporter who carefully took down every word I said in the English or Irish language, and I challenge him, or the government, or all the landlords in Ireland, to prove that I uttered one word which could by any possibility be construed to mean incitement to crime. On the contrary, from every platform I advised the people to commit no crime, to violate no law, but to carefully work within the lines of the constitution.

Now, sir, I want a fair trial; if I am innocent, I want, as an American, to be released; I want to know if my naturalization papers are worth preserving; whether, when an American leaves home his mouth must be sealed, though slavery in its worst form should exist in every country through which he may travel.

Yours, respectfully,

DANIEL McSWEENEY.

[Inclosure 7 in No. 331.]

Mr. Connick to consul at Belfast.

QUAY STREET, DUNDALK, *June* 7, 1881.

HON. SIR: I respectfully beg leave to inclose you the naturalization certificate of Mr. Daniel Sweeney, a citizen of the United States, who is now lying under arrest in Dundalk jail. I also beg to hand you his own statement, and a copy of the warrant under which he has been arrested. He has asked me to send his papers to be forwarded to your minister, London, in order to have his case brought to a speedy issue, as it's a hard matter that a respectable man should be dragged away from his family by an armed force upon mere suspicion. He now asks from *your government that protection* which every citizen of *your glorious* republic is entitled to, and only requires that if any specific charge can be brought against him that he will be brought to trial at once and tried as an American citizen, by a jury of half his own countrymen as well as an English jury.

Trusting that the country for whom our sons have fought and bled in the hour of danger won't abandon their adopted children, and will show by the steps they take that no government will be allowed to violate the liberty of an American subject against whom no crime can be proved,

I have the honor to be, yours, most respectfully,

JOHN CORMICK.

[Inclosure 8 in No. 331.]

Mr. Lowell to Mr. Simms.

LEGATION OF THE UNITED STATES,
London, June 10, 1881.

SIR: I have to acknowledge the reception of your note of the 8th instant informing me of the arrest of Mr. Daniel McSweeney, inclosing papers in relation to his case, and asking that I should advise you as to your proper action in the matter.

There seems to be no doubt that Mr. McSweeney is an American citizen. Your duty will therefore be to examine closely into the grounds of his arrest, and should it appear to you that he is innocent of the charge which has been made against him, to represent this to the authorities and request his discharge or immediate trial. You will, of course, do this in respectful terms, and without any suggestion of threats. You will please keep me informed as to your action.

I have to-day written to Lord Granville asking to be informed as to the particulars of the charge against Mr. McSweeney. Will you please inform Mr. McSweeney of the above facts?

I am, sir, &c.,

J. R. LOWELL.

[Inclosure 9 in No. 331.]

Mr. Lowell to Lord Granville.

LEGATION OF THE UNITED STATES,
London, June 10, 1881.

MY LORD: I have to-day received a letter from Mr. Williams Simms, the vice-consul of the United States at Belfast, informing me of the arrest of Mr. Daniel Sweeney, or McSweeney, an American citizen, and inclosing papers in the case. The papers include a copy of the warrant of arrest, a letter from Mr. Sweeney to myself, and his certificate of citizenship. It appears that he was arrested on the 2d instant and lodged in Dundalk jail. In his letter to me Mr. Sweeney denies that he has ever said anything which could be construed into an incitement to riot, and asserts that, on the contrary, he has advised against the commission of crime and violation of law. I should be glad to be informed of the particulars of the charge against Mr. Sweeney.

I may repeat what I said in my note of the 8th instant, with regard to the case of Mr. Walsh, that my government, though anxious not to ignore the just claim of American citizens to protection, has no desire to embarrass the action of a friendly government in dealing with a difficult and delicate domestic question.

I have, &c.,

J. R. LOWELL.

[Inclosure 10 in No. 331.]

Lord Granville to Mr. Lowell.

FOREIGN OFFICE, *June* 17, 1881.

SIR: I have the honor to acknowledge the receipt of your letter of the 10th instant, requesting to be furnished with the particulars of the charge against Daniel Sweeney or McSweeney, who is stated to be an United States citizen, and who was arrested under the act for the better protection of person and property in Ireland of March 2, 1881, on the 2d instant, and lodged in Dundalk jail.

In reply, I beg leave to acquaint you that I have referred your application to the proper department of Her Majesty's Government.

I have, &c.,

GRANVILLE.

[Inclosure 11 in No. 331.]

Mr. Simms to Mr. Lowell.

UNITED STATES CONSULATE,
Belfast, June 21, 1881.

SIR: On receipt of your letter of the 10th instant in reply to mine asking instructions in the case of Daniel Sweeney, I wrote to Dublin requesting that the grounds

for Mr. Sweeney's arrest might be furnished me, and to-day am in receipt of a letter from Mr. J. W. Burke, a copy of which I inclose, which simply states that there were reasonable grounds for suspecting Mr. Sweeney of inciting people to unlawfully assemble together, and to commit riot and assault. I have no means of ascertaining the justice of these charges, and would therefore be glad if you could make any further suggestion to me in the matter.

I am, sir, &c.,

WILLIAM S. SIMMS,
Vice-Consul.

[Inclosure 12 in No. 331.]

Mr. Burke to Mr. Simms.

DUBLIN CASTLE, *June* 20, 1881.

SIR: I am directed by the lord lieutenant to acknowledge the receipt of your letter of the 15th instant, and I am to inform you that Daniel Sweeney, of Carrowcannon House, Falcarragh, county Donegal, has been arrested under a warrant issued pursuant to the act for the better protection of person and property in Ireland (1881), being reasonably suspected of inciting persons unlawfully to assemble together, and to commit riot and assault.

I am, sir, your obedient servant,

J. W. BURKE.

[Inclosure 13 in No. 331.]

Mr. Lowell to Mr. Simms.

LEGATION OF THE UNITED STATES,
London, June 24, 1881.

SIR: I have to acknowledge the reception of your note of the 21st regarding the case of Daniel McSweeney, inclosing a copy of a letter from Mr. J. W. Burke in answer to one of yours requesting to be informed of the charge upon which he was arrested.

In reply, I would say that I have not yet received an answer to my note to Lord Granville, asking to be informed of the particulars of the charge against Mr. Sweeney.

I am, sir, &c.,

J. R. LOWELL.

[Inclosure 14 in No. 331.]

Mr. Sweeney to Mr. Simms.

DUNDALK JAIL, *July* 14, 1881.

SIR: I am getting somewhat impatient awaiting the action of my government with regard to my release or trial. You stated in your letter of June 18 that you had instructions from Mr. Lowell to make inquiries as to the grounds of my arrest. This could have been done in one day, or perhaps in one hour, for surely the Castle authorities could furnish you with the desired information, and here I am, in jail for over six weeks.

Please answer, and be so kind as to give me Mr. Lowell's address.

Yours, respectfully,

D. SWEENEY.

[Inclosure 15 in No. 331.]

Mr. Simms to Mr. Lowell.

7 DONEGAL SQUARE SOUTH, BELFAST,
July 16, 1881.

SIR: Inclosed please find copy of letter from D. Sweeney, Dundalk jail, to myself making inquiries as to the probabilities of his speedy trial or release. I have no further information in the matter, and beg to ask whether or not you have yet heard from Lord Granville.

I am, sir, &c.,

WILLIAM S. SIMMS,
Vice-Consul.

[Inclosure 16 in No. 331.]

Mr. Sweeney to Mr. Simms.

DUNDALK JAIL, COUNTY LOUTH, IRELAND,
September 17, 1881.

HON. SIR: It is now more than three months since I forwarded to you, through the United States consulate at Belfast, my naturalization papers, with a protest against my illegal arrest and detention by the British Government, and claiming, through you, that protection from my own government which I had a right to expect. As I am not aware that any technical point can be raised with regard to my citizenship, and as sufficient time to have my papers sent to San Francisco to test their genuineness has elapsed, and no action taken in my case, I am led to believe that it was overlooked, unless, indeed, that the delay is owing to the continued illness of our beloved President. I am now fifteen weeks locked up in a British dungeon, and my health is a complete wreck. I deny and defy the British Government to show that I am guilty of any crime.

I sincerely hope that your excellency will demand my immediate release, and urge my claim for damages for false imprisonment.

I am yours respectfully,

DANIEL SWEENEY.

[Inclosure 17 in No. 331.]

Mr. Lowell to Mr. Sweeney.

LEGATION OF THE UNITED STATES,
London, September 22, 1881.

SIR: I have to acknowledge the reception of your letter of the 17th instant.

I have not thought it proper to make any application for your release from prison for the following reasons:

The coercion act, however exceptional and arbitrary, and contrary to the spirit and fundamental principles of both English and American jurisprudence, is still the law of the land, and controls all parties domiciled in the proclaimed districts of Ireland, whether they are British subjects or not. It would be manifestly futile to claim that naturalized citizens of the United States should be excepted from its operation.

The only case, in my opinion, in which I ought to intervene, would be where an American citizen who is in Ireland attending exclusively to his private business and taking no part whatever in public meetings or political discussions should be arrested. Under such circumstances it would be proper to appeal to the courtesy of the government here on the ground of mistake or misapprehension, and ask for the release of the prisoner.

I have communicated these views to the Department of State, and I have received, so far, no instructions in a contrary spirit.

It does not appear to me that the reasons above given for intervention exist in your case so far as I understand it.

I am, sir, &c.,

J. R. LOWELL.

[Inclosure 18 in No. 331.]

Mr. Sweeney to Mr. Lowell.

DUNDALK JAIL, *September* 27, 1881.

SIR: A letter bearing your signature, dated from the legation of the United States, London, of the 22d instant, is received by me in my prison cell in Dundalk. I am unwilling to believe that this letter is the production of an American gentleman, much less the American gentleman representing the United States Government at the court of St. James. I cannot believe that an American gentleman would treat the appeal of an American citizen in prison with contempt, therefore permit me to presume that you signed the letter in question by mistake, but as your signature is attached to it I may be permitted to analyze it and if possible ascertain your meaning.

The reasons which you say influence you in not making an application for my release are not, in my opinion, good and sufficient reasons. But I will quote your own words and leave the public on both sides of the Atlantic to judge.

"The coercion act, however exceptional and arbitrary, and contrary to the spirit and fundamental principles of English jurisprudence, is the law of the land."

That the coercion act is the law of the land no one will dispute, but many will be inclined to the belief that the *absence* of coercive measures would be exceptional.

"It would be manifestly futile to claim that naturalized citizens of the United States should be excepted from its operation."

Here we learn for the first time that there is a distinction between naturalized and native-born American citizens regarding their right to claim protection abroad; but it is evident that you are laboring under a misapprehension with regard to my claim. I did *not* claim to be excepted from its operations; my claim is based on the fact that I did not violate any law.

"The only case, in my opinion, in which I ought to interfere would be when an American citizen who is in Ireland attending exclusively to his own business and taking no part whatever in public meetings or political discussions should be arrested, it would be proper to appeal to the courtesy of the British Government for the release of the prisoner."

So that, in your opinion, the only right which an American citizen could claim abroad would be an appeal to the courtesy of the government who might deprive him of his liberty. But should an American be so imprudent as to take part in a public meeting, say a prayer-meeting, or engage in any political discussion with a Frenchman, a German, or even a Zulu, according to your opinion, he would forfeit all claim not only to protection, but even to an appeal to *courtesy*. This throws new light on the question of American citizenship.

"I have communicated these views to the Department of State, and I have received no instructions in a contrary spirit."

Of course not; I can now understand why I and other American citizens are suffering imprisonment for five or six months. But, sir, instead of communicating your views to the Department of State, of my case, why not communicate its facts, viz: That the British Government seized and cast an American citizen into prison and sentenced him to sixteen months' imprisonment, without trial by judge or jury; they refused to give any reason for his arrest; that the said American had committed no crime; that the fact of his having taken part in public meetings and political discussions did not involve any crime, as there was no law known in England at present, or until another coercion act was passed, which prohibited or declared it criminal to attend and engage in such public meetings; that the American dared the British Government to show that he was guilty of any crime; that he demanded his release from prison and claimed damages from the British Government for false imprisonment.

These, sir, are the facts in my case. I placed you in the possession of these facts immediately after my arrest, and had you communicated these facts to the authorities at Washington, and had they ignored my claim and decided that I forfeited my right to even an appeal to the courtesy of the British Government, the question of American citizenship was settled once for all.

Please return my naturalization papers and copy of the warrant under which I was arrested. I intend to preserve both as heir-looms, as, according to your *views*, one is about as valuable as the other.

Yours, truly,

DANIEL SWEENEY.

P. S.—Through courtesy to an American gentlemen, premising that it was possible there was some mistake about your signature, I refrain from giving this correspondence to the press for a few days.

[Inclosure 19 in No. 331.]

Mr. Lowell to Mr. Sweeney.

LEGATION OF THE UNITED STATES,
London, September 30, 1881.

SIR: I have to acknowledge the reception of your letter of the 27th instant, and in compliance with the request therein contained, I herewith inclose the certificate of your naturalization and the warrant of your arrest.

So far from treating your appeal for release "with contempt," it is proper for me to say that on the 10th of June last I addressed a note to Lord Granville, stating your American citizenship and your denial that you had ever incited any people in Ireland to riot, but, on the contrary, had advised against the commission of crime and the violation of law. I also stated that I should be glad to be informed of the particulars of the charge against you.

Lord Granville, in his reply of the 28th of June, declined to recognize any distinction between the liability of foreigners and British subjects in respect of unlawful acts committed within the limits of British jurisdiction. He added that the govern-

ment had no reason to believe that there was ground to suppose that American citizens had met with exceptional treatment.

And, in another note, dated the 8th of July last, he stated, in regard to my request to be furnished with particulars as to the unlawful acts alleged to have been committed by Mr. Walsh, that the government could make no distinction between foreigners and British subjects, and that in the case of the latter the only information that could be given was that contained in the warrant.

Under these circumstances, and in the absence of any information showing that your case was different from that of the great majority of others where parties were arrested under the coercion act, I did not think it proper to intervene any further in your behalf.

I am, sir, &c.,

J. R. LOWELL.

[Inclosure 20 in No. 331.]

Mr. Sweeney to Mr. Lowell.

DUNDALK PRISON, *October* 13, 1881.

SIR: Your letter of 30th September, inclosing my certificate of citizenship and copy of warrant of my arrest, was duly received.

If you have not treated my appeal with contempt, permit me to believe that your efforts for my release from prison are, in my opinion, unsatisfactory, and your reasons for non-intervention in my behalf still more so. From your correspondence with Lord Granville it would appear that you *did* appeal to the courtesy of the British Government, but that the government refused to be courteous. In answer to your note of June 10 the noble lord refused to give you any information. You stated that an American citizen was in prison in Ireland, who denied having committed any crime, and you requested to be informed of the charges against him. To this his lordship answered that he could make no distinction between the liability of foreigners and British subjects respecting unlawful acts committed within the limits of British jurisdiction. Mark, the noble lord affects to believe that I had committed unlawful acts. Here your efforts ceased as far as I was concerned.

Certainly, sir, this was not a very strong effort on your part to plead the cause of a fellow-citizen who was deprived of his liberty. You were in possession of the facts in my case, and in my opinion you should renew your appeal to the courtesy of the British Government. You were aware that an American citizen was in prison and that he should be presumed to be innocent until proved guilty. You should also reply to his lordship respecting the liability of foreigners committing unlawful acts, that I had committed *no unlawful* act, and that I defied the British Government to prove that I had. It would appear that you made another appeal to the courtesy of the British Government to obtain information respecting the particulars of the charge against Mr. Walsh, who, I presume, is also an American citizen, but you were equally unsuccessful.

The noble lord, in his reply of July 8, declined to give you any information whatever beyond that contained in the warrant of his arrest. So much for appeals to the courtesy of the British Government.

Under ordinary circumstances an accredited minister of a great and free country should not have been discouraged at these uncourteous replies, but rather have been stimulated to renewed exertions on behalf of his fellow-countryman who was held in chains by a foreign power.

Surely, sir, if you believed that Americans had any rights which England was bound to respect, you could have used stronger arguments than mild appeals to courtesy. You appealed to the courtesy of the British Government for the particulars of the charges against American citizens who were in prison and condemned without trial, and the noble lord replied in effect, and said, "We have Americans in prison in Ireland; we refuse to give you any information respecting the charges against them; we refuse to give them trial by judge or jury; some of our spies suspected them, and we promply sentenced them to eighteen months' imprisonment."

One would naturally expect that a gentleman intrusted with the important mission of United States minister at the English court should at least make a dignified reply to what some gentlemen occupying a similar position might consider an insult. But on the contrary, sir, you seem to have given up the fight, which, in my opinion, could not have been a very determined one, and you sent me a message to my prison cell, where I have been confined for over four months, and where I have to pass eighteen hours each day in a space 6 by 12, and you tell me that you have abandoned me to my fate; that you would not intervene any further in my behalf. It will not be clear to the public that you did intervene very far.

In the concluding paragraph of your courteous letter you say: "Under these circum-

stances, and in the absence of any information showing that your case was different from the great majority of others arrested under the coercion act, I did not thikn it proper to intervene any further."

Here, sir, we have your reasons for non-intervention; one the circumstance of the refusal of the British Government to give you any information respecting the charge. Now, that of itself would be hardly considered a good reason, but looking at it from my point of view from a British dungeon, the question in my mind is whether I am not still justified in believing that you have treated my appeal "with contempt." Your other reason is the absence of information showing that my case is different from the great majority of others arrested under the coercion act. It is undoubtedly true, sir, that my case does not differ from that of the great majority of others arrested under the coercion act in Ireland. The great majority of the gentlemen in prison are as guiltless as I am; they are gentlemen incapable of committing crime; they are not in prison for crime, but for their political opinions. But, sir, you must remember that they are Irishmen, and that they have no government to appeal to for protection. My case is not exceptional. But with equal justice you say to an American who should happen to be captured by some savage chief of the Cannibal Islands, and sentenced to be eaten, "Oh, sir, your case is not exceptional; there are others to be devoured as well as you. I do not think it proper to intervene."

British subjects took part in public meetings and political discussions in the United States during the slave troubles. Had the American Government cast them into prison and sentenced them to a term of imprisonment without trial and refused to give the British minister at Washington any information respecting the charge against them, what would the British minister do "under these circumstances?" Fold his arms, take the matter good-naturedly, send a message to the British subjects in prison that he "did not think it proper to intervene," or demand his passport?

Yours, respectfully,

DANIEL SWEENEY.

[Inclosure 21 in No. 331.]

Mr. Brooks to Mr. Badeau.

UNITED STATES CONSULATE,
Cork, Ireland, June 15, 1881.

SIR: About two weeks ago I received a "personal" letter from Mrs. Bridget O'Mahoney, of Ballydehob, county Cork, Ireland, informing me of the arrest of her husband, Mr. Henry O'Mahoney, under the coercion act, and requesting interference on my part to secure for him a speedy trial, &c., on the ground that he is an American citizen.

I treated this communication, and several others that followed from the same source, as personal and unofficial, and explained to Mrs. O'Mahoney that no interference by me could possibly effect the result she sought. At the same time I offered any assistance I could properly and legally render in the premises. In due course she forwarded to me a certificate of her husband's naturalization to be a citizen of the United States, a copy of which is inclosed herewith.

Meanwhile I made inquiries in a private way regarding O'Mahoney's status, from which I am led to infer that he possibly went to the United States last year for the purpose of taking out the naturalization papers referred to. I think it quite probable that very soon I will have positive proof of the truth of this inference. Of course, any further inference as to O'Mahoney's proceedings must be based upon whatever additional proof I may obtain regarding his intentions in renewing his citizenship in the United States after the lapse of sixteen years since his alleged service in the American Navy.

I add that he was one of the most popular of the Land League leaders in his countryside, and that during the "famine" of 1880 was very efficient in relieving the distress of his neighbors.

From this stand-point he was most assuredly a reputable person, and one of whom every one in the locality of his "home," as he calls it, at Ballydehob, speaks in terms of highest praise.

On the other hand, or viewed from the stand-point of the police authorities, he appears to have been a very violent, unscrupulous, and dangerous agitator.

This statement is the result in brief of my personal and unofficial investigation of the case, during which I have carefully avoided saying or doing anything calculated to commit myself or the Government of the United States. Now, however, I am in receipt of a letter, a copy of which is inclosed, from Mr. O'Mahoney in person, asking an interview with me, which I have promised to give him on Tuesday next under permission of the authorities.

I have addressed this to you for the purpose of giving you the earliest information in the premises, and of enabling you to apprise the legation in London of all the facts

in the case, if in your judgment they are of sufficient importance to be laid before Mr. Lowell.

Awaiting instructions, I am, sir, your obedient servant,

E. P. BROOKS,
Consul, &c.

[Appendix to Inclosure 21.]

Certificate of naturalization of Henry O'Mahoney.

STATE OF NEW YORK,
Erie County:

——— Court.

Present, Hon. W. W. Hammond.

——— ——— } Justices of sessions.
——— ——— }

Personally appeared in open court Henry O'Mahoney, late of Ireland, and made application upon his petition to be admitted a citizen of the United States of America; and it appearing to the satisfaction of this court that he, the said applicant, is of the age of twenty-one years and upwards, and that he did, on the 19th day of October, 1864, enlist as a soldier in the Navy of the U. S., on board of the U. S. S. Sybil, in the service of the United States of America, for the term of two years;

And it also further appearing by competent proof that on the 20th day of August, 1865, the said applicant was honorably discharged from the service of the United States; and this court being satisfied by the oaths of James Moylan and John Furck, well known by this court to be citizens of the United States, that the said applicant has resided within the limits and under the jurisdiction of the United States for one year and upwards previous to his application as aforesaid;

And it further appearing to the satisfaction of this court that during that time the said applicant has behaved as a man of good moral character, and attached to the principles of the Constitution of the United States of America, and well disposed to the good order and happiness of the same; which said proof being satisfactory evidence to this court of the said fact, they permitted the said applicant to take and subscribe the following oath, viz:

I, Henry O'Mahoney, do solemnly swear that I will support the Constitution of the United States of America, and that I do absolutely and entirely renounce and abjure all allegiance and fidelity to every foreign prince, potentate, state, or sovereignty whatsoever, particularly to the Queen of Great Britain and Ireland, to whom I now owe allegiance.

Sworn in open court, February 25th, 1880.

HENRY O'MAHONEY.

J. E. EWELL, *Deputy Clerk.*
[Stamp.]

Whereupon it is ordered by the said court that the said applicant be admitted to all the rights and privileges of a citizen of the United States.

STATE OF NEW YORK, } *ss:*
Erie County, }

I, Charles R. Durkee, clerk of said county and of the courts thereof, certify that the above is a true copy of the original proceedings as recorded in the records of the courts of said county; and further, that I have compared the same with the original, and that it is a true transcript of the whole thereof.

In testimony whereof I have hereunto subscribed my name and affixed the seal of said county and of the court thereof this 25th day of February, A. D. 1880.

[L. S.]

J. E. EWELL,
Dp. Clerk.

[Inclosure 22 in No. 331.]

Mr. O'Mahoney to Mr. Brooks.

LIMERICK PRISON, *June* 12, 1881.

HON. SIR: As you are already aware, I was arrested at Ballydehob, in this county, on the 4th instant, as being reasonably suspected of shooting at with attempt to murder. The circumstances connected with my arrest I need not detail here, as I suppose you have seen it in the public press, and all I ask of you, through the great government

which you have the honor to represent, is an impartial trial. I ask it as United States citizen, and only about four months after arriving home. An early reply, or an interview, will much oblige,

Yours, &c.,

HENRY O'MAHONEY.

[Inclosure 23 in No. 331.]

Mr. Brooks to Mr. Badeau.

UNITED STATES CONSULATE,
Cork, Ireland, June 22, 1881.

SIR: In the matter of the application of Henry O'Mahoney, political prisoner, now in Her Majesty's jail at Limerick, in this consular district, for assistance or protection, based upon the claim that he is a citizen of the United States, I have to report the following additional facts:

On Tuesday, the 21st instant, with the permission of F. McG. Eager, esq., governor of the prison, I had a very lengthy interview with O'Mahoney in the governor's office. I had previously intimated in a personal way to Mr. Macarthy, president magistrate at Limerick, the time and purpose of this interview, and had invited him to be present at it as a representative of Her Majesty's Government. He was not present, however, until the interview had been nearly concluded.

The purport of O'Mahoney's statements was, in brief, as follows:

He was discharged from the United States Navy in the fall of 1865, and had lost his discharge papers. Subsequent to his discharge he remained in the United States, living in Kansas, Missouri, and the Mississippi Valley until 1874, when he returned to Ireland. During this period, in 1866, he made application to the county court, Caddo Parish, Shreveport, La., for his naturalization papers, basing his application upon his service in the Navy. The papers were not issued; the reason for which failure to issue he did not state.

His return to Ireland in 1874 was occasioned by the "hard times" then prevailing in the United States, and because he had lost money by bank failures as well as failures of contractors for whom he had worked as a subcontractor in the erection of saw-mills. He remained in Ireland two years, and returned again to the United States in 1876, but returned to Ireland soon after. He was married in Ireland in 1875, and in October of that year obtained a license under the local laws to keep a "public house;" *i. e.*, as a retailer of liquors, spirits, &c., &c. This house and license his wife has kept and used at Ballydehob ever since, and still keeps and enjoys the same. In 1879 he returned to the United States and went to Lockport, N. Y., and from thence to Buffalo.

In February, 1880, he applied for and obtained naturalization papers in Lockport, a copy of the certificate of which was forwarded inclosed in my dispatch to you under date of June 15 instant.

In January, 1881, he returned to Ireland, for the purpose, as he most emphatically declared, of disposing of his property in Ballydehob and going with his family back to Lockport, where, he says, he now owns a small property. After his last arrival at Ballydehob he took part in the then prevailing political agitation, and being a ratepayer (tax-payer and voter), was urged by his neighbors to stand as a candidate for *poor law guardian*. He objected to this, but was finally duly nominated, elected, and qualified, after which he entered upon and discharged the duties of his office up to the time of his arrest and incarceration.

He added that he knew the office of poor law guardian was one of important trust if not of emolument, and that the discharge of its duties involved the assessment and levy of taxes (striking rates), and the practical administration or execution of the laws of this country.

To the question, "What demand or claim do you wish to prefer or ask of the United States Government?" he answered, "I demand and claim protection the same as the British Government gave to its subjects in New York during the draft riots in the late war. I am an American citizen, and want to get out of this country. I want a fair trial; I want justice and a speedy trial, and I want the protection of the American Government to secure these things to me."

To the further question, "Suppose the British Government were to permit your release from prison upon condition of your immediate return to the United States, would you accept such terms?" he replied. "I cannot promise that, for it would take a year to close up my affairs here and sell out my property; but I do not want to stay in this country, and am willing and anxious to leave it as soon as I can."

O'Mahoney further explained that the foregoing statement of dates or years may not be technically correct, and that he gave it from memory, to the best of his recollection and belief.

In conclusion he repeated his request for the immediate interference of the United States authorities in his behalf.

To conclude the record in O'Mahoney's case it is necessary to state that he stands committed under the so-called "coercion act" as a suspect, on suspicion of having been implicated in an assault with fire-arms, with intent to kill, upon Mr. George Henry Swanton, justice of the peace, Gortnagrough, Ballydehob.

I have to add that before I left the prison I was informed that two or more prisoners were anxious to see me for the purpose of preferring claims similar to those of O'Mahoney's. In response to this information, I declared my willingness to take cognizance of their cases upon proper application in due form.

As I have received no instructions up to date in O'Mahoney's case from the legation or other source, I shall, unless otherwise directed, permit the matter to drop here.

I am, sir, your obedient servant,

E. P. BROOKS,
Consul, &c.

[Inclosure 24 in No. 331.]

Mr. O'Mahoney to Mr. Lowell.

LIMERICK PRISON, *July* 15, 1881.

DEAR SIR: As I am a suspect here for some time, I forwarded my papers of citizenship about the 18th of June to Ed. P. Brooks, United States consul at Queenstown, and demanded protection, and he said he would attend to it; and in a note from a friend from Queenstown to-day he (Mr. Brooks) requested that I should write to the ministry at St. James in reference to my application for protection. I arrived in this country about the last of January for the express purpose of collecting a lot of money due to me here, and was fully intended to go to the States this fall in order to get into the apple trade. I certainly say that during my time at home previous to my arrest I was never guilty of any offense punishable by law, and I respectfully ask if I cannot be protected in this country long enough to collect my debts, and by obeying the laws, such as I always have, to allow me as many days as possible in preparing to depart for America; and although it is very hard on me to go without collecting my debts, yet I shall receive it as an everlasting favor done me under the circumstances. An early reply will much oblige,

Yours, respectfully,

HENRY O'MAHONEY.

P. S.—The crime that I am suspected with I can furnish plenty of evidence that I had no connection with.

H. O'M.

[Inclosure 25 in No. 331.]

Mr. Lowell to Mr. O'Mahoney.

LEGATION OF THE UNITED STATES,
London, July 19, 1881.

SIR: I have your letter of the 15th instant. I am waiting instructions from home before taking action in such cases as yours.

It is my opinion, however, and in this I shall probably be sustained by the Department of State, that the fact of being an American citizen cannot of itself operate to exempt any one from the penalties of a law which he had violated, and that it will be necessary to show that some exceptional injustice had been practiced in any particular case before the American minister can be called upon to intervene.

I am, sir, your obedient servant,

J. R. LOWELL.

[Inclosure 26 in No. 331.]

Mr. Brooks to Mr. Lowell.

UNITED STATES CONSULATE,
Queenstown, July 21, 1881.

SIR: I have recently had several personal applications from friends of Mr. Henry O'Mahoney (political prisoner now in Her Majesty's jail at Limerick, and claiming to

be an American citizen) for information regarding the result of his application through me for your intervention in his behalf. To these inquiries I have replied, promising to communicate with you again.

O'Mahoney himself has written to me, giving a brief supplementary statement, in effect that he is desirous of going back to America for the purpose of engaging in the exportation of apples and other fruits to this country.

I am, sir, your obedient servant,

E. P. BROOKS,
Consul, &c.

[Inclosure 27 in No. 331.]

Mr. O'Mahoney to Mr. Lowell.

LIMERICK PRISON, *July* 21, 1881.

DEAR SIR: I quite agree with you when you state that an American citizen should not be exempt from the penalties of a law which he violates and that it would be necessary to show that some injustice had been practiced before your intervention, and I respectfully submit the following facts for your kind consideration:

1st. That I am arrested charged with a crime.

2d. That I am detained in prison without a shadow of evidence against me.

3d. That I am debarred of the right of proving my innocence in connection with the crime that I am suspected of. Therefore all the favors I ask (and I think I should claim it as a right) from the United States Government, through you, is a trial, in order that I may show that there is exceptional injustice practiced in my case. Therefore I respectfully ask your intervention to grant me a trial, and by so doing I will not only be able to prove myself innocent of the charge that I am accused of, but of any other crime punishable by law, except being a member of the Land League, an organization which the prime minister himself declared to be perfectly constitutional.

An early reply will oblige yours, respectfully,

HENRY O'MAHONEY.

P. S.—Kindly let me know if you can demand an impartial trial for me; if not, I shall ask for no other favors.

H. O'M.

[Inclosure 28 in No. 331.]

Mr. Daly to Mr. Tinsley, consular agent at Limerick.

LIMERICK COUNTY JAIL,
Friday, October 28, 1881.

SIR: I beg to inform you that I, James F. Daly, a citizen of the United States, have been arrested by the lord lieutenant's warrant and detained here at his will on a charge which "I challenge him to prove against me." Will you be so kind as to come and see me as quickly as possible, and forward my naturalization papers to the American minister to demand for me a trial or speedy release.

I beg to remain, yours, respectfully,

JAMES F. DALY.

[Inclosure 29 in No. 331.]

Mr. Tinsley to Mr. Barrows.

CONSULATE OF THE UNITED STATES,
Dublin, October 29, 1881.

SIR: I received the inclosed letter this morning and soon after called upon the writer at the county jail. I had an interview with him, and he requested me to forward his certificate of naturalization as an American citizen to the United States minister at London, and to request respectfully his excellency's interference in his behalf.

I send inclosed his letter and certificate that you may take such action in the matter as you may deem proper.

I have, &c.,

JOHN R. TINSLEY,
Consular Agent.

[Inclosure 30 in No. 331.]

Mr. Barrows to Mr. Lowell.

CONSULATE OF THE UNITED STATES,
Dublin, October 31, 1881.

SIR: I have the honor to transmit herewith a letter from United States Consular Agent Tinsley, of Limerick, relating to the case of James F. Daly, recently arrested under the coercion act, and now confined in Limerick jail.

I inclose Daly's naturalization papers and his letter to Mr. Tinsley, and respectfully ask for instructions.

I have, &c.,

B. H. BARROWS.

[Inclosure 31 in No. 331.]

Mr. Hoppin to Mr. Barrows.

LEGATION OF THE UNITED STATES,
London, November 2, 1881.

SIR: I have the honor to acknowledge the receipt of your letter of the 31st ultimo, addressed to the minister of the United States, covering another from J. R. Tinsley, esq., United States consular agent at Limerick, which inclosed a communication from Mr. James F. Daly, and his certificate of naturalization as a citizen of the United States.

It appears that Mr. Daly has been arrested under the so-called "coercion act," and is now detained at Limerick jail. He desires that the minister should demand for him a trial or speedy release, and you ask for instructions in this matter.

Mr. Lowell went to the continent upon a leave of absence more than three weeks since and will not return until early in December.

In a communication which was addressed to you on the 1st of September last, in relation to the case of Mr. Walsh, Mr. Lowell stated the reasons why, in his opinion, he should not intervene on behalf of American citizens arrested under the coercion act, unless under extraordinary and exceptional circumstances. I have good grounds to believe that these reasons are not disapproved of by the Department of State.

I fully agree with Mr. Lowell in this view of our diplomatic duties. If no distinction has been made to the disadvantage of the prisoner on the ground of his nationality, and if British subjects are being imprisoned for no more illegal acts than those which he has committed, it seems that, however arbitrary and despotic we may consider the coercion act to be, we are nevertheless obliged to submit in silence to the action taken under it by the authorities, even against our own fellow-citizens.

So long ago as the year 1848, when certain citizens of the United States were arrested and confined in Newgate prison, Dublin, under the law suspending the habeas corpus, Mr. Buchanan in his instructions to Mr. Bancroft said, "If this law, arbitrary and despotic as it is, had been carried into execution in the same impartial manner against the citizens and subjects of all foreign nations this government might have submitted in silence." It was the fact that a distinction was made to the disadvantage of American citizens that was the ground of intervention in that case.

It is useless for us to apply to Her Majesty's Government for a statement of the dates, places, and other details of the specific acts alleged to have been committed by Mr. Daly, upon which the warrant for his arrest was issued. We have already asked for similar information on other occasions, and have been told that Her Majesty's Government consider that no distinction can be made in these circumstances between foreigners and British subjects, and that in the case of the latter the only information given is that contained in the warrant. We have, therefore, to look elsewhere for such information.

If Mr. Daly can show satisfactorily that the acts for which he has been imprisoned are of less gravity and importance than those for which any British subjects have been arrested; that he has been attending exclusively to his private affairs in Ireland, without taking part in political meetings or party disturbances, and that his incarceration is due to mistake and misapprehension, I shall take great pleasure in bringing his case to the attention of Her Majesty's Government and asking for his speedy release.

I herewith return Mr. Tinsley's and Mr. Daly's letters, and the latter's naturalization certificate.

I am, sir, &c.,

W. J. HOPPIN,
Charge d'Affaires ad interim.

[Inclosure 32 in No. 331.]

Mr. Barrows to Mr. Lowell.

CONSULATE OF THE UNITED STATES,
Dublin, January 30, 1882.

SIR: On the 23d instant James White applied to me by letter for protection as an American citizen, he having been arrested under the coercion act and confined in Naas jail. I wrote White on the 25th, asking him to produce proof that he was an American citizen, and this morning received his naturalization paper, which I have now the honor to transmit, together with two letters written me by White.

Awaiting your instructions, I have, &c.,

B. H. BARROWS, *Consul.*

[Inclosure 33 in No. 331.]

Mr. Barrows to Mr. Lowell.

CONSULATE OF THE UNITED STATES,
Dublin, January 31, 1882.

SIR: I have the honor to forward a letter from Mr. Philip O'Sullivan, dated Naas prison, 30th January, 1882, with certificate of naturalization referred to therein, claiming protection from the United States Government, and respectfully request I may be favored with instructions in the matter.

I have, &c.,

B. H. BARROWS, *Consul.*

[Inclosure 34 in No. 331.]

Mr. White to Mr. Barrows.

NAAS JAIL, *January* 23, 1882.

SIR: I hereby beg to inform you that I am at present undergoing imprisonment in the above-named jail, under a warrant of the lord lieutenant, issued by virtue of the powers vested in him by the act for the better protection of person and property in Ireland, commonly known as the coercion act.

I am a fully naturalized citizen of the United States, and now claim the protection of my government. It is not pretended by the authorities that I have violated the laws of this country. No attempt has been made to prove such a violation against me. I am denied the right of a trial, although fully conscious of my innocence. I can hardly believe that the government of the country in which I resided for fifteen years will permit its citizens to be cast into prison by the arbitrary will of an English official in defiance of all constitutional and international rights, and, therefore, claim as my right that you shall interfere to protect my interest.

I am, sir, yours, very truly,

JAMES L. WHITE.

[Inclosure 35 in No. 331.]

Mr. White to Mr. Barrows.

THE JAIL, NAAS, *January* 28, 1882.

SIR: As requested by yours of the 25th instant, I herewith forward certificate of naturalization, which I have just received from my friends.

I believe that, according to the theory even of British law, I am illegally detained here, as the warrant under which I was arrested was issued for John White, whereas my name is James White, and notwithstanding I protested at the time I was arrested under it and since detained.

I am, sir, your obedient servant,

JAMES L. WHITE.

[Inclosure 36 in No. 331.]

Mr. O'Sullivan to Mr. Barrows.

THE PRISON, NAAS, *January* 30, 1882.

SIR: I beg to inform you that I am a fully and duly naturalized citizen of the United States; in testimony whereof, please find herewith my final certificate of naturalization.

I am now and have been for the last twelve weeks confined in the above-named prison, convicted of no crime, guilty of none, not even charged with any offense against English law. I am merely, in the words of the warrant under which I was arrested, "reasonably suspected of being guilty." My warrant was issued "by his excellency's command," and signed "W. E. Foster, chief secretary to the lord lieutenant."

I now, sir, through you, claim with confidence the protection of my government, asking that you would demand that I be either at once sent to trial or immediately released from my imprisonment.

I am, sir, with great respect, your obedient and faithful servant,

PHILIP O'SULLIVAN.

P. S.—Kindly return my naturalization certificate when you have no further use of it.

P. O'S.

[Inclosure 37 in No. 331.]

Mr. Lowell to Mr. Barrows.

LEGATION OF THE UNITED STATES,
London, February 2, 1882.

SIR: I have your letter of the 30th ultimo in relation to the case of Mr. James White, who is confined in Naas jail under the so-called "coercion act," and inclosing his certificate of naturalization and two letters written by him to you on the 23d and 28th of January last.

I have also your letter of the 31st of January in relation to the case of Mr. Philip O'Sullivan, who is confined in the same prison under the same act, and inclosing his certificate of naturalization and a letter from him to yourself, dated on the 30th ultimo.

Both of these gentlemen claim protection on the ground of being citizens of the United States, and you ask me for instructions in their cases.

In a communication which I addressed to you on the 1st of September last, in relation to the case of Mr. Joseph B. Walsh, I stated my opinion to be that the fact of being an American citizen confers upon a person no immunity from arrest and imprisonment under the "coercion act," and that the only occasions on which I could properly intervene in behalf of such persons would be:

First. Where such person, being in Ireland in the prosecution of his lawful private business, and taking no part in political meetings or partisan disturbances, has been arrested by obvious mistake; and

Secondly. Where a distinction has been made to the disadvantage of the prisoner on the ground of his American nationality.

If British subjects are being arrested for no more illegal acts than those which the prisoner is charged with having committed, or of the intention to commit which he is justly suspected, it seems that, however arbitrary and despotic we may consider the "coercion act" to be, we are, nevertheless, bound to submit in silence to the action taken under it by the authorities even against our own fellow-citizens.

It should be observed that this act is a law of the British Parliament, the legitimate source and final arbiter of all law in these realms, and that, as it would be manifestly futile to ask the government here to make an exception on behalf of an American who had brought himself within the provisions of any law thus sanctioned, so it would be manifestly unbecoming in a diplomatic representative, unless by express direction of his superiors, to enter upon an argument with the government to which he is accredited as to the policy of such a law or the necessarily arbitrary nature of its enforcement.

I must repeat, therefore, in the cases of Messrs. White and O'Sullivan, the substance of what I wrote to you in the case of Mr. Walsh, that unless these gentlemen can produce to me satisfactory proof that they have been arrested under an evident mistake of the facts, or have been treated with exceptional severity on account of their being American citizens, I must decline to intervene on their behalf.

I herewith return their certificates of naturalization and the accompanying letters.

I am, sir, &c.,

J. R. LOWELL.

[Inclosure 38 in No. 331.]

Mr. Dawson to Consul-General Merritt.

UNITED STATES CONSULATE,
Queenstown, January 28, 1882.

SIR: Mr. I. Hart, of Carrigtwohill, near Queenstown, called on me to-day and stated as follows:

His brother, Michael Hart, is at present under arrest in Clonmel jail under the inclosed warrant. He is a naturalized citizen of the United States, and has sent me his certificate of naturalization for inspection.

I. Hart is anxious to have his brother released, and asked for my advice. I recommended him to get his brother to write to the chief secretary, Dublin Castle, stating that he is a citizen of the United States, and that if freed from arrest that he will conduct himself properly and peaceably while in this country and will conform to its laws. Hart thought it advisable to notify the nearest consul of his being in jail, in consequence of having seen a paragraph in a newspaper that the President of the United States had been requested to ascertain the number of Americans under arrest in Ireland.

I am, sir, your obedient servant,

GEO. B. DAWSON,
Vice-Consul.

[Inclosure 39 in No. 331.]

Mr. Lowell to Consul-General Merritt.

LEGATION OF THE UNITED STATES,
London, February 3, 1882.

SIR: I have to acknowledge the receipt of your letter of the 1st of February instant, covering two communications from B. H. Barrows, esq., the United States consul at Dublin, addressed to me, and also a letter to yourself from G. B. Dawson, esq., the vice-consul at Queenstown, the letter in relation to the case of Michael Hart, who is imprisoned in Clonmel jail under a warrant which accompanied Mr. Dawson's letter.

I herewith inclose my reply to Mr. Barrows's letters, with the request that you will be kind enough to transmit it to that gentleman.

In regard to Mr. Hart's case neither he nor the vice-consul asks for any intervention by me on his behalf. They address you in order that the fact of Mr. Hart's being an American under arrest in Ireland may be communicated to the Government of the United States. In case I shall be directed to send a list of such persons I shall not fail to include Mr. Hart's name.

I consider the advice given to him by Mr. Dawson most just and proper.

I herewith return Mr. Dawson's letter with the warrant for Hart's arrest.

I am, sir, &c.,

J. R. LOWELL.

[Inclosure 40 in No. 331.]

Mr. Dawson to Consul-General Merritt.

CONSULATE OF THE UNITED STATES,
Queenstown, February 7, 1882.

SIR: I duly received your favor of 4th instant, informing me that you had sent my letter with copy of warrant in reference to Mr. Michael Hart to his excellency the United States minister at London.

I beg to inclose a note received from Michael Hart this morning. I also send his certificate of citizenship.

I am, sir, your obedient servant,

GEORGE B. DAWSON,
Deputy and Vice-Consul.

[Inclosure 41 in No. 331.]

Mr. Lowell to Consul-General Merritt.

LEGATION OF THE UNITED STATES,
London, February 10, 1882.

SIR: I have to acknowledge the reception of your letter of the 8th instant, in relation to the case of Michael Hart, now imprisoned in Clonmel jail, and its inclosures, viz, a letter from Mr. Dawson, United States vice-consul at Queenstown; one from Mr. Hart to Mr. Dawson, and Mr. Hart's certificate of naturalization.

Mr. Hart has been arrested under the so-called "coercion act," and he appears to think that the fact of his being an American citizen entitles him to immediate release.

This is not, however, my opinion. The principles upon which I have based my action in all cases of applications like that of Mr. Hart's are those upon which our government has acted and in case of need would act again.

I think it important that all such persons should be made to understand distinctly that they cannot be Irishmen and Americans at the same time, as they seem to suppose, and that they are subject to the operation of the laws of the country in which they choose to live.

The vice-consul at Queenstown should inform himself of the facts in Mr. Hart's case, and ascertain whether there be any peculiar hardship in it which would make it an exception, calling for immediate and energetic protest. In that case it would be necessary for him to send me a full statement of the case, with whatever confirmatory or illustrative evidence it is possible to obtain. But if his case is like that of the ordinary "suspects," I see no reason why I should intervene.

I return Mr. Hart's and Mr. Dawson's letters, and Mr. Hart's certificate of naturalization.

I am, sir, your obedient servant,

J. R. LOWELL.

[Inclosure 42 in No. 331.]

Mr. Lowell to Mr. Dawson.

LEGATION OF THE UNITED STATES,
London, February 14, 1882.

SIR: You will have received from Mr. Merritt a copy of my letter to him upon the subject of Mr. Michael Hart's imprisonment in Clonmel jail. Since the date of that letter I have instructions in relation to this case which make it desirable that I should ascertain the particular facts and circumstances which led to his arrest. Will you, therefore, be kind enough to inquire and report to me what you can learn about this matter? Has Hart been conspicuous in any way in using his influence to prevent the payment of rent? What has he done that he should be selected for arrest? It is hardly possible that it was a purely arbitrary proceeding. It is unnecessary for me to suggest that these inquiries should be conducted with all proper discretion.

I am, sir, &c.,

J. R. LOWELL.

[Inclosure 43 in No. 331.]

Mr. Dawson to Mr. Lowell.

CONSULATE OF THE UNITED STATES,
Queenstown (Cork), February 17, 1882.

SIR: I have the honor to acknowledge receipt of your dispatch dated February 14.

I proceeded this morning by car to Carrigtwohill, which is distant from here about six miles, and called on the head constable at the police station. He said that it would be contrary to rules to give me any information as to the cause of Michael Hart's arrest, and advised me to see the subinspector of police at Middleton, four miles beyond Carrigtwohill. I then drove to Middleton and had an interview with Mr. Creagh, subinspector of the district. I told him my object in calling was to get some information about Michael Hart, who was arrested by him at Ballintubber, near Carrigtwohill; that Hart had applied to me for advice and protection, and in consequence I wished to know the cause of his arrest. Mr. Creagh said it was not his duty to give any information on such a subject. I replied that I did not want or expect him to put me in possession of any facts that would be improper or injudicious to give, but it was my duty when a citizen of the United States applies for advice or protection to inquire

fully into the circumstances. I then mentioned that I had already advised Mr. Hart to give an undertaking to conduct himself in conformity with the laws if released. I asked Mr. Creagh if Hart had taken a prominent part at land-league meetings, or if he had been inciting people not to pay rents. I also mentioned that I had received from Mr. Hart a copy of the warrant under which he was arrested, also his certificate of citizenship, and had sent both to you, and that it was your desire to be made aware, as far as possible, of the actual causes which led to Hart's arrest.

He then told me that Hart had been the cause of much trouble in the neighborhood of Ballintubber by inciting people to withhold rents, and that he seemed to be under the impression, because of his being an American citizen, that he might advise and incite his neighbors to disobey the laws of this country. He further said that Hart would not have been arrested unless sufficient proof had been given that he was guilty of the charges specified in the warrant.

I then asked if he thought the authorities would grant Hart's release provided he would give the undertaking which I have previously mentioned. He replied that the district is now quiet and the farmers are paying their rents, and he fears that Hart's return may again cause trouble, but if he would give a proper undertaking for his good conduct, or return to the United States, that the police authorities would not put any impediment in the way of his release.

Mr. Creagh considers Hart to be a worthless, troublesome, and dangerous person. He is also of opinion that Hart has been concerned in other matters of perhaps even a more serious nature than that for which he is now imprisoned.

I called upon the parish priest of Carrigtwohill, but he was unable to give me any further information.

I am, sir, your obedient servant,

GEO. B. DAWSON,
Deputy and Vice-Consul.

[Inclosure 44 in No. 331.]

Mr. Dawson to Mr. Lowell.

UNITED STATES CONSULATE,
Cork (Queenstown), February 18, 1882.

SIR: I have the honor to inclose a copy of a letter received to-day from Mr. Michael Hart. I also send copy of a second letter, which, I presume, is intended as a supplement to the first.

I am, sir, your obedient servant,

GEO. B. DAWSON,
Deputy and Vice-Consul.

[Inclosure 45 in No. 331.]

Mr. Hart to Mr. Dawson.

CLONMEL, *February* 16, 1882.

SIR: I received your letter of the 14th instant, together with my certificate and copy of letter for his excellency, and you want to know is there any special or peculiar hardship in my case. Well, I maintain that my conduct was always peaceable and in accordance with the laws of the country, and I think no greater hardship could be done to me than to ram me into prison without showing cause for same. Because a certain man in my neighborhood did not get as much rent-money as formerly, he satifies himself by taking my liberty away and sending me to goal.

I think Mr. Lowell mistakes when he says I can't be an Irishman and American at the same time. I never pretended to be an American, and I am not ashamed to be born in Ireland. I do think the main cause of the majority of suspects is for taking part or being members of an association called the Land League, which was proclaimed illegal here some time ago, and I want Mr. Lowell distinctly to understand that I never became a member of that assiociation, neither did I ever contribute one penny towards it, and until it is proved in some shape or form that I at any time did do any act contrary to the law of the country I am living in, I will maintain that a greater injustice was never done to any man.

If Mr. Lowell thinks he has no right to intervene in my case he is at his own option to do so. As far as my humble opinion is, the charge laid against me in warrant is not a charge punishable by the law of his country. When the constitution was suspended here in Ireland, I was not surprised to get an order from Dublin Castle, for I knew perfectly well some of the landlord class in this country have a terrible hatred towards America, or any one who had ever been there, and I had no alternative but to

sacrifice my expenditure and business, and clear out to America or be at their mercy, and I choose the latter rather than show cowardice, and am prepared to sacrifice my prospects and health in preference to my principles.

I am, sir, your obedient servant,

MICHAEL HART.

[Inclosure 46 in No. 331.]

Mr. Hart to Mr. Dawson.

SIR: I think it useless for you to be forwarding any statement of mine. It's hardship enough to be imprisoned without showing cause for same, and not be going into detail about special hardship. In my estimation the United States minister do think we are after committing some great breach of the law, and I really think if the truth of his mind was known he have very little sympathy for me or any one like me. However, I leave the matter in your hands and to your own discretion.

I am, sir, your obedient servant,

MICHAEL HART.

[Inclosure 47 in No. 331.]

Mr. Dawson to Mr. Lowell.

CONSULATE OF THE UNITED STATES,
Queenstown, February 23, 1882.

SIR: I have the honor to inclose a copy of a letter received to-day from Mr. Michael Hart.

On Sunday last Mr. Hart, of Carrigtohill, brother of Michael Hart, called on me. I informed him of the fact of my having had an interview with the chief of police at Midleton, and that I was under the impression his brother would be released provided he would sign the undertaking which I advised him to offer.

From what I could gather, Michael Hart is not disposed to sign any such undertaking. He evidently values the opinions of his friends in this country more than his liberty, and he also thinks it would be cowardly to sign any pledge for his future conduct or to accept release, except unconditionally.

I am, sir, your obedient servant,

G. B. DAWSON,
Deputy and Vice-Consul.

[Inclosure 48 in No. 331.]

Mr. Hart to Mr. Dawson.

CLONMEL GAOL, *February* 22, 1882.

SIR: In a letter from my brother he tells me you don't understand my letter or know what I am going to do. If I have said in my letter to you that I was not an American, and did not mean to be one, I was referring to the copy of his excellency's, where he said he wanted me to understand that I could not be an Irishman and an American at the same time, and perhaps that is how I said I did not mean or pretend to be an American, and my motive in making that remark was I never meant to be an American born, or went under the pretense of being one, and that I was not ashamed to be born in Ireland. But, though being a foreign-born citizen of the United States, I think I have a right to claim all the rights and protection while in a foreign country which is accorded to native-born citizens; and as to informing you what I was going to do I don't know that myself. If my health will permit, when released from here, my stay will be very short in this country, and I think it's hardship enough to be put behind bar and bolt in an English prison when pursuing my daily avocations in a law-abiding manner, without showing further causes of hardship.

I return you my sincere thanks for the interest you are taking and the trouble you have given yourself in my case.

Your obedient servant,

MICHAEL HART.

[Inclosure 49 in No. 331.]

Mr. Lowell to Mr. Barrows.

LEGATION OF THE UNITED STATES,
London, February 8, 1882.

SIR: The principles upon which I have based my action in all cases of applications to me from naturalized citizens now imprisoned in Ireland under the coercion act are those upon which our government has acted, and in case of need would act again. I think it important that all such persons should be made to understand distinctly that they cannot be Irishmen and Americans at the same time, as they now seem to suppose, and that they are subject to the operation of the laws of the country in which they choose to live.

You should inform yourself of the facts in each case as it arises, and ascertain whether there be any peculiar hardship in it which would make it an exception calling for immediate and energetic protest. In that event it would, of course, be necessary to send me a full statement of the case, with whatever confirmatory or illustrative evidence it was possible to obtain. In all other cases, it would be enough if you report to me names, dates, and charges in each case, and guide yourself in your answer to applications for protection by the instructions already received from this legation, being careful always not to vary from the language therein employed.

I am, sir, &c.,

J. R. LOWELL.

[Inclosure 50 in No. 331.]

Mr. Lowell to Lord Granville.

LEGATION OF THE UNITED STATES,
London, March 6, 1882.

MY LORD: I have the honor to acquaint you that I received yesterday from Mr. Frelinghuysen a cable dispatch, of which the following is a translation:

"Referring to the cases of O'Connor, Hart, McSweeney, Walsh, McEnery, and Dalton, American citizens imprisoned in Ireland, say to Lord Granville that, without discussing whether the provisions of the force act can be applied to American citizens, the President hopes that the lord lieutenant of Ireland will be instructed to exercise the powers intrusted to him by the first section, to order early trials in their and all other cases in which Americans may be arrested."

In transmiting this dispatch to your lordship, I venture to hope that, considering the importance of the matters to which it refers, it may receive the early attention of Her Majesty's Government.

I have, &c.,

J. R. LOWELL.

[Inclosure 51 in No. 331.]

Lord Granville to Mr. Lowell.

Immediate.] FOREIGN OFFICE, *March 6*, 1882.

SIR: I have the honor to state to you that I have lost no time in communicating to the proper department of Her Majesty's Government the letter you have addressed to me this day, communicating a telegram you have received from your government relative to the case of citizens of the United States who have been arrested under the protection of person and property (Ireland) act, 1881.

In reply, I beg leave to assure you that this matter will receive the immediate attention of Her Majesty's Government.

I have, &c.,

GRANVILLE.

No. 114.

Mr. Frelinghuysen to Mr. Lowell.

[Telegram.]

DEPARTMENT OF STATE,
Washington, March 16, 1882.

[The Secretary of State refers to his telegram of the 4th instant expressive of the President's wishes as to early trials, and states that the President, though desirous of not seeming unreasonable, would be relieved if, without having to wait for general action regarding coercion act cases, he could inform Congress that his request regarding the Americans has been complied with.]

No. 115.

Mr. Frelinghuysen to Mr. Lowell.

No. 333.] DEPARTMENT OF STATE,
Washington, March 17, 1882.

SIR: I inclose herewith a copy of a letter to this Department from the Hon. Nathaniel P. Hill, a Senator from Colorado, in relation to the imprisonment in Ireland of Mr. James L. White, a naturalized American citizen, on a charge of being "reasonably suspected." I will thank you to inquire into the circumstances attending the arrest of Mr. White, and to report the facts to this Department with as little delay as practicable, meanwhile taking any action in reference thereto which you may deem expedient under the general instructions to your legation with regard to cases of this character.

I am, sir, &c.,

FRED'CK T. FRELINGHUYSEN.

[Inclosure in No. 333.]

Mr. Hill to Mr. Frelinghuysen.

UNITED STATES SENATE CHAMBER,
Washington, March 14, 1882.

DEAR SIR: It is represented to me by persons in whom I place confidence that Mr. James L. White, a naturalized American citizen, has been for several months incarcerated in jail at Naas, Ireland, on the charge of being "reasonably suspected."

Mr. White was for two years a member of the city council of Denver, Colorado, and is said to be a peaceable, quiet man, well-disposed towards good government. He left Denver about the 22d day of July, 1878, and returned to Ireland for the purpose of visiting his aged father and staying with him the remainder of his life. Very respectable parties in Denver offer to vouch for the intelligence, sobriety, and integrity of Mr. White.

I would respectfully request that inquiries be made in this case, and if the facts will justify, that such steps may be taken as will be necessary to secure his release.

I am, sir, &c.,

N. P. HILL.

No. 116.

Mr. Frelinghuysen to Mr. Lowell.

[Telegram.]

WASHINGTON, *March* 25, 1882.

Mr. West has asked me this morning to use my good offices to secure to William Lane, a British subject, held in Detroit prison for trial, the trial which he asserts he is unable to obtain. I have telegraphed to the attorney-general of Michigan to inquire into the facts in order that they may be fully reported to Mr. West, and have said that the President desires that he will use his best endeavors to secure to Lane the early trial which Lane asserts he cannot obtain.

In informing Lord Granville of this you may say that we are still without the information respecting the trials in the Irish cases which your telegram of last week led us to expect, and that the President hopes that Her Majesty's Government will see its way to an early and favorable answer.

FRELINGHUYSEN.

No. 117.

Mr. Lowell to Mr. Frelinghuysen.

[Telegram.]

LEGATION OF THE UNITED STATES,
London, March 29, 1882.

[Mr. Lowell reports having just had an interview at the foreign office. Lord Granville expressed regret at delay in answering our request for early trials of the American prisoners, and stated that it had been caused by necessity of consulting authorities in Ireland. He stated also that he was unable to encourage Mr. Lowell to expect a favorable answer. A reply in writing is looked for by Mr. Lowell within a day or two.]

No. 118.

Mr. Lowell to Mr. Frelinghuysen.

[Telegram.]

LEGATION OF THE UNITED STATES,
London, March 31, 1882.

[Mr. Lowell reports the conclusion arrived at by the British cabinet, which has been put in the form of a memorandum by Lord Granville, as follows:

The communications which have been made by Mr. Lowell as to the "suspects" in Ireland alleged to be American subjects involve principles of such importance that Her Majesty's Government consider it better to give their views in a dispatch which I will soon address to Mr. West. In the mean time I may say to Mr. Lowell that the imprisonment of the suspects under the act of last year is not a measure of punishment, but of prevention. * * *]

No. 119.

Mr. Lowell to Mr. Frelinghuysen.

[Telegram.]

LEGATION OF THE UNITED STATES,
London, April 2, 1882.

[Mr. Lowell reports that the majority of the Americans have already been released. The secretary for Ireland thinks that only three remain.]

No. 120.

Mr. Lowell to Mr. Frelinghuysen.

[Telegram.]

LEGATION OF THE UNITED STATES,
London, April 3, 1882.

[Mr. Lowell states that Walsh has been already released, and that so have Hart and O'Connor. No Joseph Dalton has been arrested. White has been released on parole.]

No. 121.

Mr. Lowell to Mr. Frelinghuysen.

No. 346.] LEGATION OF THE UNITED STATES,
London, April 21, 1882. (Received May 3.)

SIR: I have the honor to acquaint you that immediately after receiving your No. 333 of the 17th of March, in relation to the case of Mr. James L. White, I addressed a letter to Lord Granville upon the subject, and I have just now received his answer, informing me of the discharge of Mr. White. I inclose a copy of this correspondence.

I have, &c.,

J. B. LOWELL.

[Inclosure 1 in No. 346.]

Mr. Lowell to Lord Granville.

LEGATION OF THE UNITED STATES,
London, March 28, 1882.

MY LORD: I have the honor to acquaint you that I have to-day received a dispatch from Mr. Frelinghuysen instructing me to inquire into the circumstances attending the arrest of Mr. James L. White, a naturalized American citizen, who has been for some months imprisoned in Naas jail in Ireland under the so-called "coercion act" on a charge of being "reasonably suspected" of offenses against this act.

Mr. N. P. Hill, a Senator of the United States from the State of Colorado, has represented to the Secretary that Mr White was for two years a member of the city council of Denver in that State, and is said to be a peaceable, quiet man, well disposed toward good government. He left Denver about the 22d day of July, 1878, and returned to Ireland for the purpose of visiting his aged father and staying with him the re-

mainder of his life. Very respectable persons in Denver offer to vouch for the intelligence, sobriety, and integrity of Mr. White.

I have the honor to ask your lordship that inquiries may be made into the circumstances attending the arrest of Mr. White, and if it shall appear that there has been any mistake or undue severity in his case that he may be released or granted a speedy trial.

I have, &c.,

J. B. LOWELL.

[Inclosure 2 in No. 346.]

Lord Granville to Mr. Lowell.

Pressing.] FOREIGN OFFICE, *April* 19, 1882.

SIR: With reference to my letter of the 29th ultimo, respecting the case of Mr. James L. White, a naturalized American citizen, who has been in custody under the protection of person and property (Ireland) act, 1881, I have the honor now to state to you that I am informed that after causing careful inquiry to be made, orders were given by the lord lieutenant of Ireland for the discharge of this prisoner.

I have the honor further to observe, with reference to the last paragraph of your letter of the 28th ultimo, that his excellency has satisfied himself that there was no mistake whatever in the arrest of Mr. White, and that no undue severity was exercised towards him while in custody; but that, on the contrary, he was last month released on parole for ten days, on account of the illness of a relative.

I have, &c.,

GRANVILLE.

No. 122.

Mr. Frelinghuysen to Mr. Lowell.

No. 366.] DEPARTMENT OF STATE,
Washington, April 25, 1882.

SIR: From the tenor of your telegram of the 20th instant, I learn that six American suspects are still detained in prison. Of these six cases three, viz, O'Mahoney, McSweeney, and McEnery, had been previously made known to the department. The cases of Slattery, Brophy, and Gannon are now made known to us for the first time.

It appears from documents on file in this department, that O'Mahoney in 1866 made application in Louisiana for naturalization under the soldiers' act (Revised Statutes, section 2166) and was refused, for what cause is not stated. He then returned to Ireland, where he remained. In October, 1875, he went into business as a keeper of a public house and retailer of liquors, at a place called Ballydehob. This business has been carried on in his name since 1875. In 1878 he came to the United States of America, and obtained naturalization there in February, 1880, without stopping his business in Ballydehob. He then returned to Ireland, where he was and still is a rate-payer, tax-payer, and voter, and offered himself as a candidate for poor-law guardian. He was elected, qualified, and entered upon the discharge of the duties of the office, and was discharging them when arrested. His imprisonment under his present arrest dates from November last.

On this statement it cannot be denied that O'Mahoney is a citizen of the United States. The assurance which the ordinary processes of naturalization give to the United States that its citizenship is sought with a purpose of forming part of its population, and contributing to its wealth and its strength, is waived in this statute, and that great privilege is conferred for the sole consideration of a year's service in its military

forces. And although that alleged service had been rendered fifteen years before the naturalization, and although the person seeking the naturalization had abandoned the country and was in business in a foreign land, and holding office there with every apparent purpose of remaining there permanently, the language of the act seemed to leave the court no discretion to refuse the decree when it was once proved that the applicant had enlisted in the armies of the United States, that he had been honorably discharged therefrom, and that he had resided more than one year in the United States previous to his application.

In this statement I make no account of the fact that O'Mahoney informed the consul at Cork that his alleged service was in the Navy. If his statement to the consul was correct, his alleged naturalization was fraudulent and in violation of law under the settled rulings of this government. This precise point has been decided by the district court of the United States for the district of Oregon. (In re Bailey, 2 Sawyer's Reports, 200.)

Assuming, however, that the naturalization was within the letter of the law, the President is of the opinion that it was only just within the letter, and that it was wholly outside the spirit and intent of the naturalization laws. We generously welcome aliens within our folds with the expectation that they are really to become bone of our bone and flesh of our flesh; that they are to cast their lots in with us, and that the fruits of their industry are to form part of our national wealth. But when an alien is at the very time of his naturalization, and for years before has been, a resident and office-holder in the country of his origin, when after his naturalization he puts his certificate in his pocket and returns to the country of his origin, and continues to reside there in business and holding office, the President feels it to be his duty to afford to such a citizen only the measure of protection demanded by the strictest construction of duty, namely, that he shall receive from the hands of the government under which he is holding office the measure of protection which it affords to its own citizens or subjects.

Mr. McSweeney was naturalized many years since and resided in San Francisco, engaged in the cattle trade. About six years ago he returned with his family to Ireland and purchased some property there. For the last six years he has been residing there, and it is understood that he also is holding office as a poor-law guardian with an apparent purpose of remaining in Ireland. He is a gentleman of influence and appears to have taken a prominent part in the troubles which are now agitating Ireland. He says that his action has been that of a peaceable citizen and within the line of the law. The British authorities maintain that they have good right to suspect him of inciting persons unlawfully to assemble together and to commit riot and assault. It is understood that the British authorities are ready to release him if he will leave Ireland.

The President has carefully considered this case also. When a naturalized citizen resumes his residence with his family in the land of his origin, and goes into business there, and becomes an office-holder, and takes active part in political discussions, if it turns out that his action gives offense to the local government, and he is thrown into prison, the laws and interests of the United States do not require us to do more than insist that he shall have a right to return to the country of his adoption, leaving the question of damages for future discussion.

Such is understood to have been the course pursued by the United States during the late civil war. In September, 1862, the British *chargé d'affaires* at Washington requested the discharge of one Francis

Carroll, a British subject, who had been arrested by the military authorities in Baltimore. Mr. Seward refused the request, and in a note to Mr. Stuart said:

> Is the Government of the United States to be expected to put down treason in arms and yet leave persons on liberty who are capable of spreading sedition? * * * Certainly the government could not expect to maintain itself if it allowed such mischievous license to American citizens. Can the case be different when the dangerous person is a foreigner living under the protection of this government? I can conceive only one ground upon which his release can be ordered, and that is that he may be too unimportant and too passionate a person to be heeded in his railings against the government. But you will bear in mind that the times are critical, and that sedition is easily moved now by evil-designing men who in times of peace might be despised. (Diplomatic Correspondence for 1862, p. 228.)

A correspondence ensued, which resulted in a proposal that—

> Mr. Carroll should be released from custody upon his agreeing to leave the United States immediately, and not return again during the continuance of this rebellion, and giving security to the approval of the United States marshal that he will keep said agreement. (Diplomatic Correspondence for 1863, p. 460.)

This offer was accepted by the British *chargé d'affaires* and Mr. Carroll was discharged.

The President cannot assume that an exercise of national sovereignty which was performed by the United States when their security was assailed cannot be performed by other powers similarly situated, subject, of course, always to be questioned when the good faith of its exercise may be drawn in doubt.

But in the exercise of such an extreme right of sovereignty the comity of nations demands that the power exercising it should hold itself ready at all times to explain to the power on whose citizens it has been exercised the reasons which have compelled it. It cannot be doubted that Her Majesty's Government will observe the same spirit of courtesy in this respect that the Government of the United States displayed when the case was reversed. You will therefore inquire of Lord Granville why these two prisoners are detained, and if it should appear that we are correctly informed as to their history and as to their active participation in the local politics of Ireland, and you are assured that they may leave the country at any moment they please, you will communicate these facts to the Department and await further instructions.

As to the prisoner McEnery, it is understood here that he was arrested last June on suspicion of being concerned in an assault and in breaking into a dwelling. It is now nearly a year since this arrest was made, and, making due allowance for the exceptional condition of Ireland, the President is of opinion that the time has come when Her Majesty's Government should frankly state why he is held and when he may have an opportunity of defense. The President, on entering upon the duties of his office on the death of President Garfield, was ignorant of these arrests and of their nature. My attention was not called to them when I took charge of the Department. It was not until I had been here some weeks that the friends of the prisoners brought the real facts to my knowledge. Since then, under direction of the President, I have spared no effort to have this matter properly adjusted. I am bound to say that our exertions have been met in a spirit of friendship by Her Majesty's Government; but it assumes as the basis of its action a principle to which the President cannot assent. In his note of the 6th April, to Mr. West, Lord Granville quotes with approval the following extract from a note of the 14th October, 1861, from Mr. Seward to Lord Lyons:

> In every case subjects of Her Majesty residing in the United States and under their protection are treated, during the present troubles, in the same manner and with no greater or less rigor than American citizens.

And he deduces from this the principle that "no distinction can be made in favor of aliens," or, as stated to yourself in a note of the 28th June last, that Her Majesty's Government would not admit—

> Any claim to exemption on behalf of any person, whether alien or citizen, from the operation of the laws which equally affect all persons residing in the domain and under the protection of the Crown.

Mr. Seward's statement was rather an allegation of a fact than the enunciation of a principle. But if it can be taken to be the statement of a principle as broad as Lord Granville now lays down, the President cannot but look upon it as an extreme position taken in the heat of conflict, to which the government of neither Great Britain nor the United States can give adhesion in time of quiet and reflection. It is certain that Her Majesty's Government did not accept it as a rule of action during the civil war, and as certain that Mr. Seward did not adhere to it, but permitted exceptional inquiries, as in Carroll's case and McHugh's case and the cases of the military commission in Fort Lafayette, to be made throughout the war. Lord Lyons was constantly and diligently asking the causes of arrest and imprisonment of British subjects, and Mr. Seward was as constantly answering his inquiries, notwithstanding the fact of the suspension of the *habeas corpus*.

It is not the interest of either government to be drawn into an extreme position in this delicate matter. The President concedes that he has no right to expect to transfer into foreign countries the forms of law which under American institutions are so great a security to the citizen. He concedes to every sovereign power the right to prescribe its own code of crimes and its own mode of trying offenders, and if it shall choose to adopt a system which gives the citizen fewer guarantees against injustice than prevail in the United States he feels that he cannot complain if it is applied to citizens of the United States who are found where it prevails.

But if, when thus applied, it works actual injustice; if it takes possession of an American citizen, and deprives him of his liberty without any allegation of offense; if it leaves him incarcerated without hope of trial or chance of release, it then becomes the duty of the President to inquire why this is done. Her Majesty's Government pursued that course during the civil war. They will see that a self-respecting government must do the same now. And the President can have no doubt that when you, under these instructions, courteously, but firmly, ask to be informed why McEnery is deprived of his liberty, and why he is afforded no opportunity of defense, Her Majesty's Government, instead of referring you to the municipal law of Great Britain, which authorizes such treatment of British subjects, will at once give you with frankness and fullness the information you ask for. As soon as it is obtained you will cable the substance.

In regard to the other persons, of whom we now hear for the first time, I understand that as to one or more of them there is some doubt as to the citizenship.

In the present excited state of Ireland you will, as I doubt not you have hitherto done, exercise due caution and scrutiny to make sure that persons have the right to claim your protection. In a country where the ordinary course of law is suspended there is danger that unworthy and designing persons, who are not American citizens, will seek to put on our nationality. American citizenship is a great privilege, not to be lightly put on or unworthily worn. Its assumption implies the promise and the obligation to observe our laws at home, and peaceably as good citizens to assist in maintaining our faith abroad,

without efforts to entangle us in internal troubles or civil discord with which we have not, and do not wish to have, anything to do. When an American citizen thus conducts himself, whether at home or abroad, he is entitled to the confidence of his government and active support of all its officials. If business interests or the ties of affection take him into lands where from any cause laws which protect him from arrest and imprisonment do not exist, his government claims the right to interpose its own shield to take the place of the protection which is denied by local laws.

The President is aware that Ireland is now in an exceptional condition. But even if all be true which is stated; if it is impossible to conduct a trial by jury of a breaker of the peace with any hope of conviction even with the clearest proof; if the witness who testifies against such an offender does it with his life in his hands; if it be impossible for owners of property to collect rents under any process of law; if those who are responsible for the administration of law in Ireland are seeking to do away with this unhappy condition—even if all this be true, it furnishes no sufficient reason why an American citizen should remain incarcerated without accusation, without chance of trial, without opportunity for release. The President is gratified to observe that the claim thus to hold American citizens is modified by the following language in Lord Granville's instruction of April 6th to Mr. West:

> The Irish Government have in many instances released prisoners upon a reasonable belief that it could be done without risk to the public safety, and I need hardly say that Her Majesty's Government are not desirous of detaining unnecessarily in prison any person from whom no danger to the public peace is to be apprehended.
>
> They will therefore be prepared to consider the circumstances of any citizens of the United States now detained who may be willing to engage forthwith to leave the United Kingdom.

The President moreover has little doubt that Her Majesty's Government do not intend to insist in practice upon the extreme doctrine that an American citizen against whom there is no charge shall, without trial, remain in prison or leave the United Kingdom. But he believes, by fairly considering each case as it arises, conclusions will be reached satisfactory to both governments.

After satisfying yourself that the three persons whose names are now reported to us are citizens, you will ask Her Majesty's Government why they are detained, and whether it is contemplated to give them trials, reporting by cable; and should your intervention or protection be claimed by others hereafter, you will be governed by the rules and principles laid down in this dispatch.

You are instructed to read this instruction to Lord Granville and to leave a copy of it with him if he desires it.

I am, sir, &c.,

FRED'K T. FRELINGHUYSEN.

No. 123.

Mr. Lowell to Mr. Frelinghuysen.

[Extract.]

No. 349.] LEGATION OF THE UNITED STATES,
London, May 3, 1882. (Received May 18.)

SIR: I have the honor to report that since my last dispatch on the subject of the persons claiming to be naturalized citizens of the United

States now imprisoned in Ireland, I had an interview, by appointment, with Mr. Forster on Friday, 21st April, the results of which I have already communicated in substance by telegram. I assented that he should try the experiment of offering their release to all the so-called American suspects on condition of their going back within a reasonable time to the country they claim to have adopted, but I distinctly informed him that I was not authorized by my government to accept anything less than unconditional liberation. On my part I promised to have the prisoners informed, on my own responsibility alone, that "in case they should be released" forty pounds sterling should be at the disposal of each to pay his passage across the Atlantic. I accordingly instructed Messrs. Barrows and Wood, consuls respectively at Dublin and at Belfast; and Mr. Tinsly, consular agent at Limerick, to visit the prisoners and make known to them the offer. Two of them, McInerny and Slattery, were allowed three days to consider whether they would accept or not; the others, O'Mahoney, Gannon, and McSweeney, refused to be liberated on any terms whatever. Under whose advice or orders they were acting is a matter of very probable conjecture.

Meanwhile it is nearly certain that all the suspects, except those charged with crimes of violence, will be very shortly set at liberty, thus rendering nugatory the most effective argument in favor of disorder and resistance to the law. * * *

I inclose a copy of the correspondence.

I have, &c.,

J. R. LOWELL.

[Inclosure 1 in No. 349.]

Mr. Lowell to Mr. Barrows.

LEGATION OF THE UNITED STATES,
London, April 21, 1882.

SIR: You will please see without delay William Brophy, a suspect claiming to be an American citizen, confined in Naas jail, and say to him that "in case he should be liberated you have authority to pay him forty pounds sterling for his passage to the United States," for which sum you may draw upon me at sight.

I am, &c.,

J. R. LOWELL.

[Inclosure 2 in No. 349.]

Mr. Lowell to Mr. Wood.

LEGATION OF THE UNITED STATES,
London, April 21, 1882.

SIR: You will please see without delay Henry O'Mahoney, who is confined in Monaghan jail, and Daniel McSweeney, who is confined in Dundalk jail, both of whom claim to be American citizens, and say to each of them that "in case he should be liberated you have authority to pay him forty pounds sterling for his passage to the United States," for which sum you may draw upon me at sight.

I am, &c.,

J. R. LOWELL.

[Inclosure 3 in No. 349.]

Mr. Lowell to Mr. Tinsly.

LEGATION OF THE UNITED STATES,
London, April 21, 1882.

SIR: You will please see without delay John McInerny and Patrick Slattery, suspects claiming to be American citizens and confined in Limerick jail, and say to each

of them that "in case he should be liberated you have authority to pay him forty pounds sterling for his passage to the United States," for which sum you may draw upon me at sight.

I am, &c.,

J. R. LOWELL.

[Inclosure 4 in No. 349.]

Mr. Tinsly to Mr. Lowell.

CONSULAR AGENCY OF THE UNITED STATES,
Limerick, April 22, 1882.

SIR: I have the honor to acknowledge receipt of your letter of the 21st instant. In accordance with your instructions I called without delay at the county jail, and had an interview with John McInerny and Patrick Slattery separately. I informed each of them that I had, as consular agent of the United States at Limerick, received authority to pay him forty pounds sterling for his passage to the United States, in case he should be liberated. Each of them asked if the payment was to be conditional upon his leaving this country for America, to which I replied that I presumed it was. But to satisfy them I read the exact words from your letter without informing them from whom I received the letter or the instructions, as you marked your letter confidential. Neither of them would give a decided reply, but said they would think it over and give me their reply on Thursday next. It would be well to let me have clear instructions on that point as to conditions, and also a draft form of the receipt I am to take from them, or either of them in case they consent.

I remain, &c.,

JOHN R TINSLY,
United States Consular Agent.

[Inclosure 5 in No. 349.]

Mr. Lowell to Mr. Tinsly.

Confidential.] LEGATION OF THE UNITED STATES,
London, April 24, 1882.

SIR: I have your letter of the 22d. It must be distinctly understood that this money is not offered to the prisoners to induce them to leave Ireland.

It is to be given them simply as an act of kindness to enable them, in case of their release without funds, to return to America.

I inclose the form of a receipt which you desire.

I am, &c.,

J. R. LOWELL.

[Inclosure.]

Received from J. R. Tinsly, esq., forty pounds sterling to enable me to pay my necessary expenses in reaching my home in the United States.

£40.

[Inclosure 6 in No. 349.]

Mr. Barrows to Mr. Lowell.

CONSULATE OF THE UNITED STATES,
Dublin, April 25, 1882.

SIR: I have the honor to acknowledge receipt of yours of the 21st. In obedience to your instructions to "see William Brophy," I called upon the under secretary and asked for an order directed to the governor of Naas jail which would allow me to see Brophy privately. The courtesy was at once accorded me, and on yesterday I proceeded to Naas. Governor Gildea gave me a private room, where I saw Brophy, who, in the course of conversation, remarked that if released he could not undertake to leave under three or four months; that his mother-in-law died last May intestate, and that he and the other relatives are unable to agree on executors or administrators; that he came to Dublin from New York in 1877; returned to America once for about six months; does not deny that he was a Fenian in 1867, but declares positively that

he is not concerned in the present movement in any way whatever, nor does he belong to any society or organization; that he has five children, the youngest only five weeks old, his wife a delicate woman and unable to travel. He stated, finally, that he had no desire or intention of remaining in Ireland after the settlement of his private affairs, but he refused absolutely to accept release on the condition of his leaving for America.

His decision is emphasized by inclosed telegram, which I received from him this morning, wherein, you will observe, he refuses anything but unconditional release.

Awaiting your further instructions, I have the honor, &c.,

B. H. BARROWS,
United States Consul.

[Inclosure 7 in No. 349.]

Copy of telegram from William Brophy to American consul.

NAAS JAIL, COUNTY KILDARE, IRELAND,
April 24, 1882.

Will accept my release unconditionally; not otherwise.

[Inclosure 8 in No. 349.]

Mr. Tinsly to Mr. Lowell.

CONSULAR AGENCY OF THE UNITED STATES,
Limerick, April 25, 1882.

SIR: I have the honor to acknowledge receipt of your letter of the 24th instant. In compliance with a request from the prisoners John McInerny and Patrick Slattery, to call at the jail to-day, I did so, and had an interview with them. They said as it was to benefit their health they came to Ireland, and neither of them feeling well, they would not be disposed at present to return to the United States even if they were to be liberated from prison.

I distinctly informed them that I held out no inducement to them to leave Ireland, but if they were liberated and wished to return to America, I was authorized, as an act of kindness, to pay to each of them the amount I previously named to pay their passage and other expenses, as they may not have funds to enable them to do so. The matter now stands as I have stated.

I remain, &c.,

JOHN R. TINSLY,
United States Consular Agent.

[Inclosure 9 in No. 349.]

Mr. Wood to Mr. Lowell.

AMERICAN CONSULATE,
Belfast, April 26, 1882.

SIR: I have the honor to report the proceedings taken under the instructions of your letter of the 21st instant, in respect of the communication to be made to Henry O'Mahoney and Daniel McSweeney, now confined respectively in Her Majesty's prisons at Monaghan and Dundalk. The letter was received by me at so late an hour on Saturday, the 22d instant, as made it impracticable to reach either of the two places on that day, and no communication was available on Sunday. I was not able to go in person. Mr. Samuel P. Brown, a consular clerk, holding the commission of the President, and now on duty at this consulate, was accordingly delegated by me, under suitable instructions, to perform the service. He left Belfast on Monday morning, the 24th instant, and returned last evening. A copy of the report of his proceedings is herewith submitted. I have every reason to believe that the object of your instructions was most discreetly and faithfully accomplished.

In the event that either O'Mahoney or McSweeney should be liberated, I shall make the payment (on application therefor) of the sum named in your letter, unless I shall be otherwise instructed.

I am, &c.,

A. B. WOOD, *Consul.*

[Inclosure 10 in No. 349.]

Mr. Brown to Mr. Wood.

BELFAST, IRELAND, *April* 26, 1882.

SIR: In compliance with your instructions. I left Belfast at 9 a. m., on Monday, the 24th instant, for Monaghan, and arrived there about 12 m. I at once proceeded to Her Majesty's prison and requested an interview with the prisoner Henry O'Mahoney. The warden of the prison received me with courtesy, and at once sent for Mahoney. I then communicated to the latter the statement of Mr. Lowell's letter. Mahoney seemed undecided whether he would accept the terms implied in that communication as to his departure for America. It did not appear that he had any information that he had been or was to be pardoned.

On leaving Monaghan I was obliged, in order to reach Dundalk that evening, to drive to Clones. On reaching Dundalk it was too late for an interview with the prisoner Daniel McSweeney, but I was able to arrange for an interview on the following morning. This took place about 11 o'clock a. m. Before making Mr. Lowell's communication to McSweeney, he at once said that he would not accept his liberation on the condition of returning to the United States.

In both these cases the prisoners observed that the departure for the United States was a condition of their liberation, although no communication beyond the words of Mr. Lowell's letter was made. The warder at Dundalk gave me a copy of a letter, dated the 24th instant, from Dublin Castle (which is hereto appended), advising him of the liberation of McSweeney on condition of his leaving Ireland for the United States. I was advised that it had not, at the time of my interview, been made known to McSweeney.

In view of the indecision of O'Mahoney and the declaration of McSweeney as to the acceptance of liberation on the condition of proceeding to the United States, I informed them, agreeably to your instructions, that the consul at Belfast would carry out Mr. Lowell's instructions as to the payment of the money to each of them in case they were liberated by Her Majesty's Government, provided he should not in the mean time receive instructions revoking his authority in this respect.

I am, &c.,

SAMUEL P. BROWN,
United States Consular Clerk.

[Inclosure 11 in No. 349.]

Mr. Burke to the Governor of Dundalk Jail.

DUBLIN CASTLE, *April* 24, 1882.

SIR: I am directed by the lord lieutenant to inform you that his excellency has been pleased to order the release of Daniel McSweeney, a prisoner in your custody, under the provisions of the protection of persons and property (Ireland) act, 1881, upon his signing the following undertaking:

"I hereby undertake, if released from prison, that I will leave Ireland forthwith and return to America."

You will please inform the prisoner that if after signing this undertaking he does not leave Ireland in such a short time as is a reasonable interpretation of "forthwith," he will be rearrested.

You will please hand to prisoner a copy of this letter.

I am, &c.,

T. H. BURKE.

[Inclosure 12 in No. 349.]

Mr. Lowell to Mr. Barrows.

Confidential.] LEGATION OF THE UNITED STATES,
London, April 26, 1882.

SIR: I have to acknowledge the reception of your two letters of yesterday with accompanying papers.

You will understand, of course, that the money offer I instructed you to make was not intended as an inducement for the prisoner to leave Ireland, but simply as a provision for his expenses to America in case he should be released by the government here.

I am, &c.,

J. R. LOWELL.

[Inclosure 13 in No. 349.]

Copy of telegram from Lowell, Minister, London, to Barrows, United States Consul, Dublin, dated April 27, 1882.

You will of course understand that the offer mentioned in my letter of twenty-first is now absolutely withdrawn.

[Inclosure 14 in No. 349.]

Copy of telegram from Lowell, Minister, London, to Wood, United States Consul, Belfast, dated April 27, 1882.

Your letter of twenty-sixth received. You will please understand that the offer is now withdrawn absolutely in all cases.

[Inclosure 15 in No. 349.]

Copy of telegram from Lowell, Minister, London, to Linsly, Consular Agent, Limerick, dated April 26, 1882.

Your letter of twenty-fifth received. You will understand, of course, that the offer is now absolutely withdrawn.

No. 124.

Mr. Lowell to Mr. Frelinghuysen.

No. 350.] LEGATION OF THE UNITED STATES,
London, May 4, 1882. (Received May 18.)

SIR: The case of John R. McCormack, a prisoner in Clonmel jail, who asserts his American citizenship, and sends me a certificate of naturalization bearing the name of John McCormick, is one of those that will still embarrass me with the question of continuous domicile, even should he succeed in establishing his identity with the person named in the certified extract from the record of the justice's court of the district of Troy, New York, on which he bases his claim for my intervention in his behalf.

The date of the certificate of naturalization is the 25th October, 1867. A letter from Mrs. McCormack informs me that her husband returned to Ireland in 1869, and has continuously resided there ever since (with the exception of a visit to the United States in 1873) as the publisher and editor of a local newspaper.

The United States have from the first justly insisted on and have finally established the principle of the right of expatriation; but when a man has completed the process of expatriating himself and returns to the land of his birth, I should be glad to be instructed how far his residence there may be prolonged without extinction of the acquired and revival of the original allegiance; over how many years may the *animus revertendi* be reasonably considered elastic enough to stretch; and what kind or continuity of business pursuit may be supposed to establish the *animus manendi*.

In treaties with the North German Confederation and with Würtem-

berg, the United States have agreed to consider two years as the reasonable limit beyond which a continuous residence in his native country by the naturalized citizen of another will be considered as establishing the *animus manendi*. Some of the decisions of the court seem to imply a much shorter period.

In the cases of most, if not all, the so-called American suspects in Ireland, continuous residence has exceeded this term; in some it has greatly exceeded it; in the case of McCormack it has apparently extended to thirteen years. I cannot help thinking that the British Government would be justified in questioning the final perseverance (if I may borrow a theological term) of adopted citizenship under adverse circumstances like these.

I have, &c.,

J. R. LOWELL.

[Inclosure 1 in No. 350.]

Mr. McCormack to Mr. Barrows.

CLONMEL PRISON, *Tipperary*, 23, 2, '82.

DEAR SIR: I beg to bring under your notice that I am an American citizen, suffering imprisonment under the English coercion act. I am guiltless of any crime punishable by law, and what I request is that, in pursuance of a resolution passed by the United States legislature, you use your office in securing for me that protection which I claim as a citizen of the United States, and that justice which, only through your government, I can obtain. If the government of this most unhappy country has a charge against me, all I ask is that I be brought to trial and given a chance of refuting the charge before one of the legal tribunals of the country. If there be no charge against me other then, perhaps, that of fallacious suspicion, founded upon the whisper of an *ambitious* policeman, or grounded on the *elastic* information of a hireling informer, then I think it is no more than ordinary justice to demand my release or my trial. It is not necessary, however, that I should here enter into a discussion of the injustice which I am suffering at the hands of a rather strange government and the action, nay the duty, of that magnanimous government which you represent, and which I have sworn to maintain. For the present I think it sufficient to inform you of my position, and to request that you will see to it.

I am, &c.,

JOHN R. McCORMACK.

[Inclosure 2 in No. 350.]

Mr. Barrows to Mr. McCormack.

CONSULATE OF THE UNITED STATES,
Dublin, February 24, 1882.

SIR: I am in receipt of yours of the 23d, and in reply beg to inform you that the fact of your being an American citizen confers upon you no immunity from arrest and imprisonment under the coercion act. The minister can interfere only:

1st. When such person being in Ireland in the prosecution of his lawful private business, and taking no part in political meetings or partisan disturbances, has been arrested by obvious mistake; or,

2d. When a distinction has been made to the disadvantage of the prisoner on the ground of his American nationality.

The above are the decisions of Minister Lowell, under whose instructions I am acting. Should there be a peculiar hardship in your case, not affected by these decisions, please submit all the facts in the case, together with evidence of your American citizenship, and the matter shall have my prompt attention.

I remain, &c.,

B. H. BARROWS,
United States Consul.

[Inclosure 3 in No. 350.]

Mr. McCormack to Mr. Barrows.

NAAS BASTILE, *April* 18, 1882.

DEAR SIR: Herewith I forward you certificate of my American citizenship, and beg to request that you will lose no time in forwarding it to Mr. Lowell. I lost the original document, and in consequence of your reply to me last February, I neglected sending for a duplicate until the 20th ultimo. I trust that Mr. Lowell will lose no time in representing my case, as I am now undergoing my fourth month's imprisonment without the slightest shadow of a charge against me. Of course my business as a journalist and newspaper proprietor is suffering severely through this most wanton outrage perpetrated on me by the British Government, and I think it would be nothing more than ordinary justice that Mr. Lowell should demand compensation for me for the losses which I have sustained. I shall expect at least that my trial or unconditional release will be demanded forthwith. Surely four months should be time enough for the British authorities to trump up a charge against me if they could, but I defy them to do so.

It might be necessary for me to explain the slight difference between the name under which I was arrested and that in my certificate of citizenship. The name under which I was arrested is John R. McCormack, the R being used by me from my mother, whose name is Ryan, in order to distinguish me from several John McCormacks in Tipperary, amongst them three first cousins of my own. Of course I am prepared to prove that I am the actual person mentioned in the inclosed duplicate.

Your faithful fellow-citizen,

JOHN R. McCORMACK.

[Inclosure 4 in No. 350.]

Mr. Barrows to Mr. Lowell.

CONSULATE OF THE UNITED STATES,
Dublin, April 19, 1882.

SIR: I have the honor to transmit herewith copy of the naturalization papers of John R. McCormack, an American suspect, at present confined in Naas jail.

Mr. McCormack wrote me from Clonmel jail, where he was then confined, on the 23d February last, stating his case, and I replied to him the next day. His letter to me and a copy of my reply are submitted herewith, together with Mr. McCormack's letter of April 18.

I am, &c.,

B. H. BARROWS.

[Inclosure 5 in No. 350]

Mr. Lowell to Mr. Barrows.

LEGATION OF THE UNITED STATES,
London, April 21, 1882.

SIR: I have to acknowledge the receipt of your letter of the 19th instant, inclosing two letters from Mr. John R. McCormack, a suspect confined in Clonmel prison, to yourself, a copy of your letter to him, and his certificate of naturalization.

Will you be kind enough to state to Mr. McCormack that I shall give proper attention to his case.

I am, &c.,

J. R. LOWELL.

No. 125.

Mr. Lowell to Mr. Frelinghuysen.

No. 351.] LEGATION OF THE UNITED STATES,
London, May 6, 1882. (Received May 18.)

SIR: I have the honor to inclose herewith two copies of the correspondence respecting the imprisonment of the so-called American sus-

pects, which has been printed and laid before Parliament. I also inclose copies of letters from Messrs. O'Mahoney, Slattery, Brophy, Lynam, and Gannon, and letters from myself to Messrs. O'Mahoney and Lynam.

My notes to the British Government in relation to the cases of American suspects, copies of which have not already been transmitted to the Department of State, will appear in the printed correspondence herewith forwarded.

I have, &c.,

J. R. LOWELL.

[Inclosure in No. 351.]

UNITED STATES. No. 2 (1882).

Correspondence respecting the imprisonment in Ireland under the "protection of person and property (Ireland) act, 1881," of naturalized citizens of the United States.

(Presented to both Houses of Parliament by command of Her Majesty. 1882.)

No. 1.

Mr. Lowell to Earl Granville.

LEGATION OF THE UNITED STATES,
London, June 8, 1881. (Received June 9.)

MY LORD: Referring to the interview which your lordship was kind enough to grant me on the 3d instant, in relation to the case of Joseph B. Walsh, arrested under the coercion act at Castlebar, County Mayo, on the 8th March last, I have now the honor to request that you would at your convenience furnish me, in order to my better understanding of the facts of the case, with a copy of the warrant under which he was arrested, and with such particulars as to the offense with which he is charged as may be within your knowledge, Mr. Walsh having furnished me with evidence satisfying me that he is a naturalized citizen of the United States, though I have no reason to think that Her Majesty's Government were aware of the fact when the warrant was issued. As your lordship will observe by the dates, Mr. Walsh has already suffered a three months' imprisonment, to the manifest detriment of his affairs; and the President, while anxious not to embarrass in any way the action of a friendly government in dealing with a very difficult and delicate question of domestic policy, cannot but also feel solicitous not to ignore any just claim of American citizens to his intervention in their behalf.

I have, &c.,

J. R. LOWELL.

No. 2.

Mr. Lowell to Earl Granville.

LEGATION OF THE UNITED STATES,
London, June 10, 1881. (Received June 13.)

MY LORD: I have to-day received a letter from Mr. William Simms, the vice-consul of the United States at Belfast, informing me of the arrest of Mr. Daniel Sweeney, or McSweeney, an American citizen, and inclosing papers in the case. The papers include a copy of the warrant of arrest, a letter from Mr. Sweeney to myself, and his certificate of citizenship. It appears that he was arrested on the 2d instant, and lodged in Dundalk jail. In his letter to me Mr. Sweeney denies that he has ever said anything which could be construed into an incitement to riot, and asserts that, on the contrary, he has advised against the commission of crime and the violation of law. I should be glad to be informed of the particulars of the charge against Mr. Sweeney. I may repeat what I said in my note of the 8th instant with regard to the case of Mr. Walsh, that my government, though anxious not to ignore the just claim of American citizens to protection, has no desire to embarrass the action of a friendly government in dealing with a difficult and delicate domestic question.

I have, &c.,

J. R. LOWELL.

No. 3.

Earl Granville to Sir E. Thornton.

[Extract.]

FOREIGN OFFICE, *June* 17, 1881.

Mr. Lowell informed me on the 3d instant that he had received instructions from his government by telegraph to make representations to me on the subject of a naturalized American citizen who had been arrested in Ireland on the 8th of March last, to ask what was the crime for which he had been arrested, and to press for his being brought to trial.

Mr. Lowell added that he had been promised that fuller instructions on the subject should be sent him by mail.

I answered that such representations took me much by surprise, considering the circumstances of the case and the understanding which existed between the two countries on this point of international law; but I added that, as he expected fuller instructions, it would be better to await their arrival before discussing the question.

I now transmit for your information a copy of a letter which I have received from Mr. Lowell, in which he requests to be furnished with certain particulars connected with the arrest, under the act for the better protection of person and property in Ireland of the 2d March, 1881, at Castlebar, County Mayo, on the 8th March last, of Joseph B. Walsh, who is stated to be a naturalized citizen of the United States.*

No. 4.

Earl Granville to Mr. Lowell.

FOREIGN OFFICE, *June* 17, 1881.

SIR: I have the honor to acknowledge the receipt of your letter of the 10th instant, requesting to be furnished with the particulars of the charge against Daniel Sweeney, or McSweeney, who is stated to be a United States citizen, and who was arrested under the act for the better protection of person and property in Ireland of the 2d March, 1881, on the 2d instant, and lodged in Dundalk jail.

In reply, I beg leave to acquaint you that I have referred your application to the proper department of Her Majesty's Government.

I have, &c.,

GRANVILLE.

No. 5.

Earl Granville to Sir E. Thornton.

FOREIGN OFFICE, *June* 18, 1881.

SIR: With reference to my dispatch of yesterday's date, I transmit herewith, for your information, a copy of a letter which I have received from Mr. Lowell, requesting to be furnished with particulars of the charge under which Mr. Daniel Sweeney, or McSweeney, has been arrested in Ireland.†

A copy is also inclosed of the act of the 2d March, 1881, 44 Vict., cap. 4, entitled "An act for the better protection of person and property in Ireland."

I am, &c.,

GRANVILLE.

No. 6.

Earl Granville to Sir E. Thornton.

FOREIGN OFFICE, *June* 24, 1881.

SIR: Referring to my dispatch of the 17th instant, in which I communicated to you a copy of the letter addressed to me by Mr. Lowell, requesting that he might be furnished with certain particulars connected with the arrest in Ireland, under the peace preservation (Ireland) act, 1881, on the 8th March last, of Mr. Joseph B. Walsh, who is said to be a naturalized citizen of the United States, I now propose to place before you the considerations which, in the opinion of Her Majesty's Government, justify them in declining to recognize any distinction between the liability of foreigners

*No. 1. †No. 2.

and British subjects in respect to unlawful acts committed within the limits of British jurisdiction, or to admit any claim to exemption on behalf of any person, whether alien or citizen, from the operation of the laws which equally affect all persons residing in the dominions and under the protection of the Crown.

At the same time, I wish to observe that Her Majesty's Government have not failed to note the friendly assurances given on the part of the President of the United States towards this country, as contained in Mr. Lowell's letters of the 8th and 10th instant when applying for information with regard to the arrests in Ireland, under the act already cited, of Messrs. Walsh and Sweeney.

The right of every State to subject foreigners within its limits, no less than its own subjects, to every law made for the maintenance of law and order is an undisputed principle of the law of nations, and is a right necessarily inherent in the sovereignty of every independent community.

The principle is universally recognized, and is well stated by the great French jurist Portalis, as quoted by Sir Robert Phillimore in his "Commentaries upon International Law," vol. 1, cap. xviii, section 334, p. 454:

"Chaque État a le droit de veiller à sa conservation, et c'est dans ce droit que réside la souveraineté. Or, comment un État pourrait il se conserver et maintenir, s'il existait dans son sein des hommes qui pussent impunément enfreindre sa police et troubler sa tranquillité? Le pouvoir souverain ne pourrait remplir la fin pour laquelle il est établi, si des hommes étrangers ou nationaux étaient indépendants de ce pouvoir. Il ne peut être limité, ni quant aux choses, ni quant aux personnes. Il n'est rien s'il n'est tout. La qualité d'étranger ne saurait être une exception légitime pour celui qui s'en prévaut contre la puissance publique qui régit le pays dans lequel il réside. Habiter le territoire, c'est se soumettre à la souveraineté."

The principles thus stated apply alike to exceptional laws which the necessities of state have caused to be imposed, and to the action of the ordinary tribunals.

Foreigners, whether the native-born or naturalized subjects of their own state, are equally amenable to the laws for the time being in force in the country in which they are resident.

It will be observed that in the dispatch of the 18th December, 1848 (British and Foreign State Papers, vol. xlvii, p. 1242), Mr. Buchanan, the United States Secretary of State, admitted that the application of the law suspending the writ of *habeas corpus* was one to which his government might have "submitted in silence" if it "had been carried into execution in the same impartial manner against the citizens and subjects of all foreign nations."

But on the occasions to which attention has now been called by Mr. Lowell there is no room for complaint of any exceptional treatment in the case of American citizens.

In the correspondence in 1866 between the British Government and the United States, the true light from which the matter is to be regarded was set forth very clearly in the statement made by Mr. Seward in his confidential dispatch to Mr. Adams, the substance of which will be found in Lord Clarendon's dispatch to Sir F. Bruce of the 14th April, 1866.* Mr. Seward then said that he "frankly admitted that Americans, whether native-born or naturalized, owe submission to the same laws in Great Britain as British subjects, while residing there and enjoying the protection of the British Government;" and Mr. Seward added that "the United States Government had applied the converse of that principle to British subjects who were sojourning or traveling in the United States during the late rebellion."

Mr. Seward, no doubt, here referred to the discussion which took place between the two governments in the year 1861, when the writ of *habeas corpus* was suspended by the Executive of its own authority in America.

This correspondence will be found in the British and Foreign State Papers, 1860–'61, vol. li, pp. 241, 243, 252, 264.

The principle was then admitted on both sides that if such a proceeding was lawfully authorized (as it has been, without question, in the case of Ireland), no complaint could be made if, under its principles, the subjects of foreign states were treated in like manner, or, as Mr. Seward expressed it in his letter to Lord Lyons of the 14th October, 1861 (p. 245), "with no greater or less rigor" than the citizens of the country in which such an exceptional law had become duly operative.

(*Vide* also the correspondence in the case of Mr. Shaw, British and Foreign State Papers, 1864–'65, vol. lv, p. 710.)

Having regard to the fact that amongst the most mischievous and dangerous attempts against peace and order in Ireland are those due to Irishmen who have become naturalized in America, it would be, in the opinion of Her Majesty's Government, most highly impolitic to admit, either in principle or practice, any departure from the doctrine of their equal liability to the procedure which it has been found necessary to apply in the case of the subjects of the Queen.

Nothing could be more injurious than the belief that Irish-American citizens could carry on lawless projects in Ireland covered by an exceptional immunity.

* See appendix.

If that were permitted, they would become the principal agents in the crimes which it was the object of the act 44 Vict., cap. 4, for the protection of person and property in Ireland, to suppress.

In conclusion, I transmit, for your information, a copy of the reply which I am about to return to Mr. Lowell's applications of the 8th and 10th instant, regarding the arrests of Mr. Joseph B. Walsh and Mr. Daniel Sweeney, or McSweeney.

I am, &c.,

GRANVILLE.

No. 7.

Earl Granville to Mr. Lowell.

FOREIGN OFFICE, *June* 28, 1881.

SIR: In compliance with the request contained in your letter of the 8th instant, I have now the honor to forward a copy of the warrant under which Mr. Joseph B. Walsh, who is said to be a naturalized citizen of the United States, was arrested at Castlebar, County Mayo, Ireland, on the 8th March last.

Her Majesty's Government have also had under their consideration the application made by you on the 10th instant, requesting to be furnished with particulars of the charge under which Mr. Daniel Sweeney, or McSweeney, an American citizen, had been arrested on the 2d June, and lodged in Dundalk jail.

In the first place, I beg leave to assure you that Her Majesty's Government are very sensible of the friendly feeling toward this country, and of the appreciation shown by the President of the United States with regard to the difficulties presented by the abnormal condition of affairs at this moment in a portion of the United Kingdom.

It will not, I trust, be necessary to enter at great length upon the reasons which, in the opinion of Her Majesty's Government, prevent them from recognizing any distinction between the liability of foreigners and British subjects in respect of unlawful acts committed within the limits of British jurisdiction, or from admitting any claim to exemption on behalf of any person, whether alien or citizen, from the operation of the laws which equally affect all persons residing in the dominions and under the protection of the Crown.

It will, it is hoped, suffice to refer to the dispatch written on the 18th December, 1848 (see British and Foreign State Papers, vol. xlvii, p. 1242), to Mr. Bancroft by Mr. Buchanan, where he admits that the application of the law suspending the writ of *habeas corpus* (11 and 12 Vict., cap. 35) was one to which his government might have "submitted in silence" if it "had been carried into execution in the same impartial manner against the citizens and subjects of all foreign nations."

On the present occasion Her Majesty's Government have no reason to believe that there is ground to suppose that American citizens have met with exceptional treatment.

I have, &c.,

GRANVILLE.

No. 8.

Earl Granville to Sir E. Thornton.

FOREIGN OFFICE, *July* 1, 1881.

SIR: I have now to notify to you the transmission, on the 28th ultimo, to its destination of the communication which, as I informed you in my dispatch of the 24th ultimo, I was about to address to Mr. Lowell relative to the arrests, under the peace preservation (Ireland) act of 1881, of Joseph B. Walsh and Daniel Sweeney, or McSweeney.

I am, &c.,

GRANVILLE.

No. 9.

Mr. Lowell to Earl Granville.

LEGATION OF THE UNITED STATES,
London, July 1, 1881. (Received July 2.)

MY LORD: I have to thank your lordship for your letter of the 28th ultimo, inclosing a copy of the warrant under which Mr. Joseph B. Walsh was arrested at Castlebar, county Mayo, Ireland, in the month of March last. It appears by the copy of a certifi-

cate sent to me that Mr. Walsh was duly admitted by the superior court of the city o New York, on the 16th day of October, in the year 1875, to be a citizen of the United States of America.

I have been instructed by Mr. Blaine to make the necessary inquiries into the cause of Mr. Walsh's arrest and detention, and I should feel much obliged to your lordship if you could furnish me with a statement of the dates, places, and other details of the specific acts said to have been committed by Mr. Walsh, upon which it was thought proper to issue the warrant in question.

I have, &c.,

J. R. LOWELL.

No. 10.

Earl Granville to Mr. Lowell.

FOREIGN OFFICE, *July* 8, 1881.

SIR: I have lost no time in referring to the proper department of Her Majesty's Government the desire expressed in your letter of the 1st instant to be furnished with a statement of the dates, places, and other details of the specific acts said to have been committed by Mr. Joseph B. Walsh, upon which the warrant was issued for his arrest on the 8th March last, at Castlebar, county Mayo, Ireland.

In reply, I beg leave to remind you that, in the letter which I had the honor to address to you on the 28th ultimo, it was pointed out that Her Majesty's Government consider that no distinction can be made in these circumstances between foreigners and British subjects, and that, in the case of the latter, the only information given is that contained in the warrant.

I regret, therefore, that I am not in a position to be able to supply you with further details respecting the arrest of Mr. Walsh.

I have, &c.,

GRANVILLE.

No. 11.

Earl Granville to Mr. Drummond.

FOREIGN OFFICE, *July* 9, 1881.

SIR: With reference to my dispatch to Sir E. Thornton of the 1st instant, I transmit, for your information, copies of a further correspondence which has passed between Mr. Lowell and this department relative to the arrest of Mr. Joseph B. Walsh.*

I am, &c.,

GRANVILLE.

No. 12.

Mr. Lowell to Earl Granville.

LEGATION OF THE UNITED STATES,
London, September 1, 1881. (Received September 2.)

MY LORD: I have the honor to acquaint you that I have to-day received a letter from Mr. B. H. Barrows, the consul of the United States at Dublin, inclosing a communication, dated the 30th ultimo, that had been made to him by Mr. Joseph B. Walsh, a prisoner arrested under the protection act, and confined in Kilmainham jail.

Mr. Walsh is a naturalized citizen of the United States, and I was instructed some time since to inquire into the circumstances of his arrest. My action in his case, and in other similar cases, is still the subject of correspondence between myself and my government. Whatever may be the final decision in regard to this, Mr. Walsh's statements in his letter to Mr. Barrows are such that it is proper I should lose no time in communicating them to your lordship. He says that his health is very much impaired, and that further imprisonment would be dangerous to his life. He desires that a medical examination may be made into the truth of his statement.

I should be much obliged to your lordship if you would make such representations to the proper authorities as to cause this to be done, and to have this man liberated from prison if practicable.

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* Nos. 9 and 10.

It is proper to add that Mr. Blaine, in his instructions to me upon his arrest, says that Walsh's "character as a law-abiding and good citizen is vouched for by well-known and respectable citizens of Pennsylvania."

I have, &c.,

J. R. LOWELL.

No. 14.

Earl Granville to Mr. Lowell.

FOREIGN OFFICE, *September* 2, 1881.

SIR: I have the honor to acknowledge the receipt of yous letter of the 1st instant, urging the release from prison, on the ground of ill-health, of Mr. Joseph B. Walsh, who was arrested at Castlebar, in the month of March last, under the protection of persons and property (Ireland) act, 1881.

In reply, I beg leave to state to you that I have lost no time in referring your letter to the proper department of Her Majesty's Government, and that I shall not fail to communicate further with you upon this subject.

I am, &c.,

GRANVILLE.

No. 14.

Earl Granville to Mr. Hoppin.

FOREIGN OFFICE, *November* 11, 1881.

SIR: With reference to my letter to Mr. Lowell of the 2d September last, I have now the honor to state to you that an order was issued on the 21st ultimo, by direction of the lord lieutenant of Ireland, for the discharge of Mr. Joseph B. Walsh, who has been imprisoned at Kilmainham under the protection of person and property (Ireland) act, 1881.

A copy of this order is inclosed herewith, confidentially, for your information, from which you will perceive that it has been issued on the ground of the ill-health of the prisoner.

I am, &c.,

GRANVILLE.

No. 15.

Earl Granville to Mr. West.

FOREIGN OFFICE, *November* 12, 1881.

SIR: With reference to my dispatch to Mr. Drummond of the 9th July last, I transmit herewith for your information, copies of a further correspondence I have had with the legation of the United States, in this country, relative to the arrest of Mr. Joseph B. Walsh, who has been imprisoned at Kilmainham under the protection of person and property act in Ireland, 1881, and has now been released by direction of the lord-lieutenant of Ireland, on the ground of the ill-health of the prisoner.*

I am, &c.,

GRANVILLE.

No. 16.

Mr. Hoppin to Earl Granville.

LEGATION OF THE UNITED STATES,
London, November 14, 1881. (Received November 15.)

MY LORD: I have the honor to acknowledge the reception of your lordship's letter of the 11th instant, acquainting me with the release from Kilmainham prison of Mr. Joseph B. Walsh, and inclosing, confidentially, the order for his discharge. I shall not fail to communicate, by an early opportunity, this information to the Department of State.

I have, &c.,

W. J. HOPPIN.

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*Nos. 12 and 14.

No. 17.

Mr. Lowell to Earl Granville.

LEGATION OF THE UNITED STATES,
London, December 23, 1881. (Received December 24.)

MY LORD: I have received to-day from Mr. Blaine a dispatch stating that Mr. P. C. O'Connor, of Baltimore, Md., has informed the Department of State that his brother, Mr. Denis H. O'Connor, a naturalized American citizen, has, without cause, been arrested and imprisoned by the British authorities in Ireland on suspicion of being in sympathy with the Irish National Land League.

Mr. Blaine incloses a copy of the certificate of the naturalization of Denis H. O'Connor, and also of a letter from P. C. O'Connor above mentioned, by which it appears that the said Denis went to Ireland about four years ago, and engaged in general drapery business in Charleville, in the county of Cork, under the firm name of O'Connor and Malony, and in Kilmallock, Limerick County, under the firm name of D. H. O'Connor and Co. It is further stated that his incarceration, if continued, may prove fatal, as his health is not good, and may also injure him financially, as he is at the head of the two business establishments, with all his means at present in the hands of strange clerks and salesmen.

Under these circumstances, Mr. Blaine instructs me to bring this subject to the attention of your lordship, with the request that I may be informed as to the grounds upon which Mr. O'Connor was arrested and imprisoned.

I have, &c.,

J. R. LOWELL.

No. 18.

Earl Granville to Mr. Lowell..

FOREIGN OFFICE, *December* 30, 1881.

SIR: I have the honor to acknowledge the receipt of your letter of the 23d instant, requesting, on behalf of your government, to be informed as to the grounds upon which Denis H. O'Connor was arrested and imprisoned by the British authorities in Ireland; and I have the honor to acquaint you, in reply, that I have referred your application to the proper department of Her Majesty's Government.

I have, &c.,

GRANVILLE.

No. 19.

Earl Granville to Mr. Lowell.

FOREIGN OFFICE, *January* 26, 1882.

SIR: With reference to my letter of the 30th ultimo, I have the honor to acquaint you that Her Majesty's secretary of state for the home department has forwarded to me a copy of a communication which he has received from the lord lieutenant of Ireland, in which the latter states that Denis Hayes O'Connor was arrested on the 22d October last, under his excellency's warrant issued pursuant to the protection of person and property (Ireland) act, 1881, on the ground that he was reasonably suspected of inciting to intimidation against the payment of rent. His excellency proceeds to state that he has no reason to doubt the propriety of the arrest, but will, however, cause inquiry to be made with the view of considering whether the prisoner could now be discharged without danger to the peace of the district.

I shall not fail to communicate to you anything further which I may hear upon the subject.

I have, &c.,

GRANVILLE.

No. 20.

Earl Granville to Mr. Lowell.

FOREIGN OFFICE, *February* 2, 1882.

SIR: With reference to my letter of the 30th December last, I have been informed by Her Majesty's secretary of state for the home department that he did not fail to

refer to the lord lieutenant of Ireland your communication on the subject of Denis Hayes O'Connor, now in custody under the protection of person and property (Ireland) act, 1881, but that his excellency has expressed his regret that he cannot, consistently with his duty, order the prisoner's release at present.

I have, &c.,

GRANVILLE.

No. 21.

Mr. West to Earl Granville.

WASHINGTON, *January* 25, 1882. (Received February 12.)

MY LORD: I have the honor to inform your lordship that the Committee on Foreign Affairs has reported back to the House a resolution to the following effect:

"That the President be requested to obtain from the British Government a list of all American citizens, naturalized or native-born, under arrest or imprisonment by authority of said government, with a statement of the causes of such arrest or imprisonment, especially of such citizens as may have been thus arrested and imprisoned under a suspension of *habeas corpus* in Ireland, and, if not incompatible with the public interest, that he communicate such information as he receives, together with all the correspondence now on file in the Department of State relating to any existing arrest or imprisonment of citizens as aforesaid;" upon which Mr. Robinson, of New York, made a violent speech, copy of which is herewith inclosed, against the British Government, and said, alluding to the prohibition of the importation of hogs into England from America some time ago, which created so much sensation, "Oh! that we only paid as much attention, as much honor, to a live American citizen as we do to a dead Cincinnati hog!" I called Mr. Frelinghuysen's attention to the terms of this resolution, and to the language used in debate upon it, but he said he had no knowledge of any such resolution as I had now alluded to, and which I showed to him, nor could he tell me what was likely to be the ultimate fate of it. I remarked to Mr. Frelinghuysen that, although not much importance need be attached to such language as that used by Mr. Robinson, still the wording of the resolution was calculated to produce a bad effect, and might cause unnecessary irritation.

Mr. Frelinghuysen said he would make inquiries as to what had taken place in the committee respecting the resolution.

I have, &c.,

L. S. SACKVILLE WEST.

[Inclosure in No. 21.]

[Extract from the National Republican of January 24, 1882.]

Mr. Robinson, of New York, took the floor to discuss the resolution. He related how, some months ago, he had met the late English minister, and how that gentleman had stated to him that some American hogs of bad character had been taken over to England for consumption. The wires under the Atlantic had flashed the news of outrages that were about to be perpetrated upon the dead Ohio hog. At the same time, American citizens, who had fought upon the battle-fields of the Union, whose blood had given additional redness to the Stripes and brightened the glory of the Stars, were thrown into prison without any crime being alleged against them, were tried as felons, and were without any opportunity to get their cases before the Government or the people of the United States. He (Mr. Robinson) had been led to exclaim: "Oh, that we only paid as much attention, as much honor, to a live American citizen as we do a dead Cincinnati hog!" But so it was. The State Department would not call up the cases of those citizens and have them examined. There were five American citizens now confined in British bastiles. They had been seized, brought before a jury, tried, and acquitted; but immediately afterward the suspension of the *habeas corpus* had been brought to bear, they had been rearrested, and were now languishing in prison. He had endeavored to get the cases of these moaning, sickened, dying American citizens before this House, but until the present time had been unable to do so. He was going to move an amendment to the report, and was going to take higher ground than was there taken. Not only had the United States a right to interfere in behalf of American citizens in British prisons, but it had the right, and it was its duty, to demand the release of the members of Parliament elected by the people of Great Britain, and whom the British Government had imprisoned. "A gentleman here," continued Mr. Robinson, "shakes his head. I will shake his heart."

Mr. Robinson then quoted from a speech delivered by Lord John Russell in favor

of the British Government interfering to compel the release by the Tuscan Government of certain of its own subjects. Russian despotism hid its head, Turkish tyranny paled into insignificance and grew pygmyish in comparison with the great wrong and tyranny and despotism that had been inflicted on some of the people of Great Britain.

At this point the matter went over until Tuesday, when it will come up as unfinished business.

No. 22.

Mr. West to Earl Granville.

[Extract.]

WASHINGTON, *February* 1, 1882. (Received February 18.)

With reference to my dispatch of the 25th ultimo, I have the honor to inform your lordship that the House of Representatives, after a long debate, adopted the resolution reported from the Committee on Foreign Affairs, the terms of which are as follows:

"*Resolved*, That the President be requested to obtain a list of American citizens, naturalized or native-born, under arrest or imprisonment in Great Britain by authority of said government, with a statement of the cause or causes of such arrest and imprisonment, and especially of such citizens as have been thus arrested and imprisoned under the suspension of the *habeas corpus* in Ireland, and that he communicate such information, when received, to this House, together with all correspondence now on file with the Department of State relating to any existing arrest and imprisonment of citizens as aforesaid."

I do not think it necessary to trouble your lordship with comments on the abusive speech of Mr. Robinson, of New York, in support of his amendment, to which no importance was attached, but at the same time I would remark upon the fact of the resolution having been adopted, as showing the importance attached to conciliating the Irish vote.

Mr. Orth, of Indiana, however, stated, in support of the resolution which he, as a member of the House Committee on Foreign Affairs, reported back to the House, that it was one simply of inquiry, calling upon the State Department to furnish to the House such information as may be accessible in reference to alleged wrongs committed against certain American citizens within the jurisdiction of the British Government, adding that sundry petitions and memorials to this effect which had reached the committee formed the basis of it. In this sense the House adopted the resolution, whereupon Mr. Orth moved to reconsider the vote by which it was adopted, and also that the motion to reconsider be laid on the table.

No. 23.

Mr. Lowell to Earl Granville.

LEGATION OF THE UNITED STATES,
London, February 24, 1882. (Received March 1.)

MY LORD: I have the honor to acquaint you that the Acting Secretary of State has transmitted to me a resolution of the House of Representatives, a copy of which I inclose herewith, by which the President is requested to furnish the information therein specified concerning the arrest and imprisonment of American citizens by the British Government.

The Acting Secretary desires me to submit to him a full and accurate report on the subject with as little delay as practicable. As there are many such cases of arrest and imprisonment, of which I cannot conveniently obtain the particulars excepting through the kind offices of your lordship, I respectfully ask that you will cause me to be furnished with the information requested by the resolution, so far as the same may be properly afforded by Her Majesty's Government.

[Inclosure in No. 23.]

RESOLUTION.

FORTY-SEVENTH CONGRESS, FIRST SESSION.

CONGRESS OF THE UNITED STATES. IN THE HOUSE OF REPRESENTATIVES,
January 31, 1882.

Resolved, That the President be requested to obtain a list of all American citizens, naturalized or native-born, under arrest or imprisonment by authority of the British

Government, with a statement of the cause or causes of such arrest and imprisonment, and especially such of said citizens as may have been thus arrested and imprisoned under the suspension of the *habeas corpus* in Ireland; and, if not incompatible with the public interest, that he communicate such information, when received, to this House, together with all correspondence now on file in the Department of State relating to any existing arrest and imprisonment of citizens as aforesaid.

Attest:

EDW. McPHERSON, *Clerk.*

No. 24.

Mr. West to Earl Granville.

[Extract.]

WASHINGTON, *February* 15, 1882. (Received March 4.)

With reference to my dispatch of the 1st instant, I have the honor to inform your lordship that the Committee on Foreign Affairs of the House of Representatives having reported adversely a further resolution offered by Mr. Robinson, of New York, respecting the arrest of American citizens in Ireland, it was "tabled" (tantamount to its death-blow) by a majority of 117 to 102. This resolution was to the following effect:

"*Resolved*, That the Attorney-General of the United States is hereby directed to communicate to this House his opinion, in writing, on the following question:

"If Joseph Warren Keifer, Speaker of this House, or Alonzo B. Cornell, governor of the State of New York, or Charles Carroll, a laborer in the department of public works in the city of New York, being a citizen of the United States, visit any part of the British Empire, and should there be arrested without having committed any crime, and without any definite charge of crime being alleged against him, could the English Government, by suspending the *habeas corpus*, or otherwise, lawfully detain him indefinitely on suspicion, without trial, or without any right in our government to demand his release? Also, his opinion on the application of the law of the 29th July, 1868, to such cases, and the President's duty under it."

Another resolution was then reported back to the House with a recommendation that it should likewise be tabled. The terms were:

"*Resolved*, That the President of the United States, if not incompatible with the public service, be requested to communicate to this House all correspondence with the British Government on file in the State Department with reference to the case of D. H. O'Connor, a citizen of the United States, now imprisoned in Ireland."

The House, however, refused by 79 to 71 to do so, and a long discussion ensued upon it. The chairman of the Committee on Foreign Affairs having stated that he had not understood that this resolution had been considered by the committee, a point of order was raised on the ground that the resolution was not a report of the committee, and Mr. Cox, of New York, then moved to recommit it, and to insert therein the names of Michael Hart, H. O'Mahoney, and John McEnery, and to add a clause requesting the President to demand of the British Government the prompt trial of those citizens or their prompt release, whereupon Mr. Orth, of Indiana, the reporter of the Committee on Foreign Affairs, stated that he had no objection to such action being taken, and the resolution was accordingly recommitted with instructions as above stated.

The only real point of interest in the discussion was the production of a letter from ex-Secretary Blaine to the brother of Denis O'Connor, in which, in speaking of the action of the British Government, he "reminds him that the act of Parliament under which O'Conner is held is a law of Great Britain, and it is an elementary principle of public law that in such case the government of that country, in the exercise of its varied functions, judicial and executive, administers and interprets the law in question. The right of every government in this respect is absolute and sovereign, and every person who voluntarily brings himself within the jurisdiction of the country, whether permanently or temporarily, is subject to the operation of its laws, whether he be a citizen or mere resident. In stating this familiar principle, no more is conceded to Great Britain than every country may of right demand, and it is one of the sovereign rights which the Government of the United States has always insisted upon and maintained for itself."

A letter from the United States minister in London to the United States consul at Cork was also quoted, in which that minister says:

"The coercion act, so called, is an exceptional and arbitrary measure. * * * Its very substance and main purpose are to deprive suspected persons of the speedy trial they desire. This law is of course contrary to the spirit and foundation principles of both English and American jurisprudence. But it is the law of the land, and it controls all persons domiciled in the proclaimed districts of Ireland, whether they are

British subjects or not, and it is manifestly entirely futile to claim that naturalized citizens of the United States should be exempted from its operation.

"Unless I am instructed to the contrary by the Department of State, I must take this view of my duties."

No. 25.

Mr. West to Earl Granville.

WASHINGTON, *February* 20, 1882. (Received March 4.)

MY LORD: I have the honor to transmit herewith to your lordship copy of a dispatch which I have received from Her Majesty's consul at Baltimore, inclosing copies of an extract from the Baltimore American, containing a notice of the case of Denis H. O'Connor, now imprisoned in Ireland, and who is one of those mentioned in the resolutions introduced in the House of Representatives, on the subject of which I had the honor to address your lordship in my dispatch of the 15th instant.

I have, &c.,

L. S. SACKVILLE WEST.

[Inclosure 1 in No. 25.]

Consul Donohoe to Mr. West.

BALTIMORE, *February* 17, 1882.

SIR: I noticed in a debate in Congress a few days ago on the subject of American citizens arrested in Ireland under the "coercion act" mention was made of a man named Denis O'Connor, belonging to Baltimore, and now in jail in Ireland. I was about making inquiries as to O'Connor when I saw the inclosed notice of his case in the Baltimore American of this morning.

I have, &c.,

DENIS DONOHOE.

[Inclosure 2 in No. 25.]

[Extract from the Baltimore American of February 17, 1882.]

THE CASE OF DENIS O'CONNOR AND HIS CLAIM OF AMERICAN CITIZENSHIP.—Mr. Denis H. O'Connor, who is now confined in prison in Ireland as a "suspect," and over whose case quite a discussion occurred in the House of Representatives on Tuesday, was formerly a resident of Baltimore. He is a brother of Mr. P. C. O'Connor, who keeps a grocery store at the corner of Chase and Chapel streets, and is a fully naturalized citizen of the United States. Mr. P. C. O'Connor was called upon yesterday by an American reporter, and in response to inquiries, stated that his brother, Denis H. O'Connor, the prisoner alluded to, had resided in Baltimore for ten years previous to 1878, in which year, being broken down in health, he had taken a trip to Ireland, and had since made it his home. He had while in this city been an active and energetic business man, and among other houses with which he was associated were mentioned Hinkelman, Jackson, and Phelps, of Baltimore; John B. Ellison & Son, of Philadelphia; and Dahlnen, Forbes & Co., of New York. His health being partially restored shortly after landing in Ireland, Mr. O'Connor opened an extensive dry-goods establishment in Charleville, county Cork, and another in Kilmallock, county Limerick. His brother says that Denis was a general favorite on account of his genial disposition, but more, perhaps, on account of his outspoken love for republican institutions. When the Land League agitation commenced, O'Connor was chosen as treasurer of the Charville Branch, and so remained until arrested on the 22d October, 1881. Mr. P. C. O'Connor, on learning of the arrest of his brother, took steps to obtain his release on the ground of American citizenship. He procured a letter of introduction from Mayor Whyte to the then Secretary of State, Mr. Blaine, and proceeding to Washington, laid the whole case before Mr. Blaine. On the 25th November, 1881, Mr. P. C. O'Connor received a letter from Mr. Blaine, in which it was stated that the case was one of a class receiving the attention of the government, and would take the same course as others preceding it. Mr. Blaine also reminded Mr. O'Connor that the act of Parliament under which his brother

is held is a law of Great Britain, and that it is an elementary principle of public law that in such cases the government of that country, in the exercise of its varied functions, judicial and executive, administers and interprets the law. The right of every government in this respect, says Mr. Blaine, is absolute and sovereign, and every person who voluntarily brings himself within the jurisdiction of the country, whether temporarily or permanently, whether he be a citizen or a mere resident, is subject to the operation of those laws so long as, in the case of the alien resident, no treaty stipulation or principle of international law is contravened by the proceedings taken against him. Mr. P. C. O'Connor has also, since the change made in the cabinet, addressed quite a long communication to Mr. Frelinghuysen on the same subject, calling his attention to cases of a similar character in years gone by, with the action of various Secretaries of State in each case. To this letter no reply has as yet been received.

No. 26.

Mr. Lowell to Earl Granville.

LEGATION OF THE UNITED STATES,
London, March 6, 1882. (Received March 6.)

MY LORD: I have the honor to acquaint you that I received yesterday from Mr. Frelinghuysen a cable dispatch in cipher, of which the following is a translation:

"Referring to the cases of O'Connor, Hart, McSweeney, Walsh, McEnery, and Daltol, American citizens imprisoned in Ireland, say to Lord Granville that, without discussing whether the provisions of the force act can be applied to American citizens, the President hopes that the lord lieutenant of Ireland will be instructed to exercise the powers intrusted to him by the first section to order early trials in their (and all other) cases in which Americans may be arrested."

In transmitting this dispatch to your lordship, I venture to hope that, considering the importance of the matters to which it refers, it may receive the early attention of Her Majesty's Government.

I have, &c.,

J. R. LOWELL.

No. 27.

Earl Granville to Mr. Lowell.

FOREIGN OFFICE, *March* 6, 1882.

SIR: I have the honor to state to you that I have lost no time in communicating to the proper department of Her Majesty's Government the letter you have addressed to me this day, communicating a telegram you have received from your government relative to the cases of citizens of the United States who have been arrested under the protection of person and property (Ireland) act 1881.

In reply, I beg leave to assure you that this matter will receive the immediate attention of Her Majesty's Government.

I have, &c.,

GRANVILLE.

No. 28.

Earl Granville to Mr. Lowell.

FOREIGN OFFICE, *March* 7, 1882.

SIR: I have the honor to acknowledge the receipt of your letter of the 24th ultimo, forwarding a copy of a resolution of the United States House of Representatives, calling for information concerning the arrest and imprisonment of American citizens by the British Government.

In reply, I beg leave to acquaint you that this matter has been referred to the proper department of Her Majesty's Government.

I have, &c.,

GRANVILLE.

No. 29.

Mr. Frelinghuysen to Mr. Lowell. (*Communicated to Earl Granville by Mr. Lowell March 18.*)

[Telegraphic.]

WASHINGTON, *March* 16, 1882.

About two weeks since I cabled that President hoped early trials of Americans imprisoned in Ireland would be ordered. Without wishing to seem unreasonable, President will be relieved if, without delay for general action in Great Britain, he can inform Congress that the request as to the Americans has been granted.

No. 30.

Mr. Lowell to Earl Granville.

LEGATION OF THE UNITED STATES,
London, March 27, 1882. (Received March 27.)

MY LORD: I have just received a telegram from Mr. Frelinghuysen, in which he desires me to communicate to your lordship the action he has taken in the case of one William Lane, a British subject, who is held for trial in the prison of Detroit, in the State of Michigan. Mr. West has asked Mr. Frelinghuysen to use his good offices to secure for Lane the trial which Lane asserts he is unable to obtain. The Secretary of State has accordingly telegraphed to the attorney-general of Michigan to inquire into the facts, in order that they may be fully reported to Mr. West, and has also said that the President desires the Attorney-General to use his best endeavors to procure for Lane an early trial.

In acquainting your lordship with this, I am instructed to say that my government are still without the information respecting the trials in the Irish cases, in relation to which your lordship was kind enough to lead me to expect a speedy reply, as I telegraphed to Washington on the 17th instant, and in regard to which the President hopes Her Majesty's Government will see its way to an early and favorable answer.

I have, &c.,

J. R. LOWELL.

No. 31.

Mr. Lowell to Earl Granville.

LEGATION OF THE UNITED STATES,
London, March 28, 1882. (Received March 28.)

MY LORD: Referring to my note of yesterday, I have the honor to acquaint you that I have received this morning an additional telegram from Mr. Frelinghuysen, requesting me to inform your lordship that the British subject Lane, on whose behalf Mr. West intervened on the 24th instant, asking for a speedy trial, is now being tried. It appears that all the delays and continuances in this case have been made on the motion of Lane's counsel.

I have, &c.,

J. R. LOWELL.

No. 32.

Mr. Lowell to Earl Granville.

LEGATION OF THE UNITED STATES,
London, March 28, 1882. (Received March 29.)

MY LORD: I have the honor to acquaint you that I have to-day received a dispatch from Mr. Frelinghuysen, instructing me to inquire into the circumstances attending the arrest of Mr. James L. White, a naturalized American citizen, who has been for some months imprisoned in Naas jail, in Ireland, under the so-called "coercion act," on a charge of being "reasonably suspected" of offenses against this act.

Mr. N. P. Hill, a Senator of the United States from the State of Colorado, has represented to the Secretary that Mr. White was for two years a member of the city council of Denver, in that State, and is said to be a peaceable, quiet man, well-disposed to-

ward good government. He left Denver about the 22d day July, 1878, and returned to Ireland for the purpose of visiting his aged father, and staying with him the remainder of his life. Very respectable persons in Denver offer to vouch for the intelligence, sobriety, and integrity of Mr. White.

I have the honor to ask your lordship that inquiries may be made into the circumstances attending the arrest of Mr. White, and if it shall appear that there has been any mistake or undue severity in his case, that he may be released or granted a speedy trial.

I have, &c.,

J. R. LOWELL.

No. 33.

Earl Granville to Mr. Lowell.

FOREIGN OFFICE, *March* 29, 1882.

SIR: I have the honor to acknowledge the receipt of your letter of the 27th instant, informing me of the directions that have been given both by the President of the United States and by the Secretary of State, upon the application that has been made by Her Majesty's minister at Washington in order to obtain for William Lane, a British subject, who is detained in prison at Detroit, a judicial hearing of his case, which the accused asserts he is unable to obtain.

In reply, I beg leave to express to you my thanks for the information you have conveyed to me respecting William Lane, the particulars of whose case have not yet reached this department, and to assure you that the action of the President and of Mr. Frelinghuysen with regard to the representations made by Mr. West are cordially recognized by Her Majesty's Government.

With reference to that portion of your letter in which allusion is made to the cases of those citizens of the United States who are now detained in prison in Ireland under the protection of person and property (Ireland) act, I greatly regret the delay which has arisen in replying to the representations you have already addressed to me on their behalf. This delay has unfortunately been unavoidable, and has only occurred from the necessity of communicating upon the subject with the responsible advisers of Her Majesty in Ireland. I trust, however, that I may very shortly be in a position to communicate to you the views of Her Majesty's Government in this matter.

I have, &c.,

GRANVILLE.

No. 34.

Earl Granville to Mr. Lowell.

FOREIGN OFFICE, *March* 29, 1882.

SIR: I have the honor to acknowledge the receipt of your letter of the 28th instant, requesting that inquiries may be made into the circumstances attending the arrest of Mr. James L. White, a naturalized American citizen, who has been for some months imprisoned in Naas jail under the protection of person and property act (Ireland), and I have to state to you that your application is under the consideration of Her Majesty's Government.

I have, &c.,

GRANVILLE.

No. 35.

Earl Granville to Mr. West.

FOREIGN OFFICE, *March* 29, 1882.

SIR: With reference to your dispatch of the 15th ultimo, I transmit to you herewith, for your information, copies of the correspondence, as marked in the margin,* relative to the arrest and imprisonment of American citizens by the British Government, and the trial of a British subject named William Lane, who is detained in prison at Detroit, in the United States.

I am, &c.,

GRANVILLE.

* Nos. 23, 29, 30, 31, 32, and 33.

No. 36.

Earl Granville to Mr. West.

FOREIGN OFFICE, *March* 29, 1882.

SIR: The United States minister called upon me this afternoon by appointment.

I took the opportunity of handing to him my reply to his note of the 27th instant,* relative to the case of William Lane, at the conclusion of which an answer is also promised to the representations of the United States Government with regard to the American citizens detained in Ireland under the protection of person and property act.

Mr. Lowell said that this latter question was one which was causing considerable excitement in the United States.

I am, &c.,

GRANVILLE.

No. 37.

Earl Granville to Mr. Lowell.

FOREIGN OFFICE, *March* 30, 1882.

SIR: With reference to my letter of yesterday's date, I have the honor to express to you my thanks for the communication which you were so good as to address to me on the 28th instant, in which I am informed that the trial of the British subject, William Lane, who is detained in prison in Detroit, is being now proceeded with.

I have, &c.,

GRANVILLE.

No. 38.

Earl Granville to Mr. West.†

FOREIGN OFFICE, *March* 31, 1882.

SIR: I told Mr. Lowell in conversation to-day that the communications which he had addressed to me, and of which copies were forwarded to you with my dispatch of the 29th instant, with regard to the suspects imprisoned in Ireland, who are alleged to be citizens of the United States, involve principles of such importance that Her Majesty's Government would prefer to convey their views on the subject to the Government of the United States through Her Majesty's minister at Washington. I hope to be able to send you the necessary instructions for this purpose in the course of a few days.

In the meanwhile, I stated to Mr. Lowell, as you will have learned from my telegram of this day, that the imprisonment of suspects under the protection of person and property (Ireland) act, 1881, is not a measure for the punishment of crime but for its prevention. In many instances prisoners have been released by the Irish Government upon reasonable belief that this could be done without risk to the public safety. Her Majesty's Government, I added, are not desirous of unnecessarily detaining in prison any person from whom no danger to the public peace need be apprehended, and they will be prepared, therefore, to take into consideration the circumstances of any citizens of the United States now so detained who may be willing to engage forthwith to leave the United Kingdom.

I am, &c.,

GRANVILLE.

No. 39.

Mr. West to Earl Granville.

WASHINGTON, *March* 13, 1882. (Received April 3.)

MY LORD: I have honor to inclose to your lordship herewith copies of resolutions respecting the protection of American citizens abroad, which were introduced for reference to the Committee on Foreign Relations by Mr. Crapo, Representative from Massachusetts.

I have, &c..

L. S. SACKVILLE WEST.

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*See No. 33.

†Substance telegraphed.

[Inclosure in No. 39.]

[Extract from the Congressional Record of March 11, 1882.]

PROTECTION OF AMERICAN CITIZENS ABROAD.

Mr. CRAPO. I ask unanimous consent to introduce resolutions which I send to the Clerk's desk for reference to the Committee on Foreign Affairs, and that they may be printed in the Record.

There was no objection, and it was ordered accordingly.

The resolutions are as follows:

At a meeting of the specially-delegated representives of the Land League and Irish-American Societies of Fall River, in the Commonwealth of Massachusetts, the following resolutions were adopted:

Resolved by the Land League and Irish-American Societies of Fall River, Massachusetts, That, in view of the despotic incarceration of Irish-American citizens by the British Government, we believe the time has fully come for Congress and the Executive to demand the immediate trial by a jury of their peers of any and every native or naturalized citizen of the United States, now incarcerated in British dungeons, or their immediate release.

Resolved, That we appeal to the American Congress and to the Executive to take such action as will vindicate American honor, protect American citizenship, and establish justice. To this end we pledge loyalty and united support.

Resolved, That in the language of The Citizen, of Chicago, "Europe, not England, is the mother country of America," and that every citizen of the United States, be he American, Englishman, Irishman, Frenchman, German, Russian, Italian, Spaniard, or Turk, is personally interested in this demand.

T. DWIGHT STOW,
THOMAS WEBB,
JOHN RIDER,
Committee League No. 1.

On behalf of the Young Men's Irish-American F. A. and B. Society, numbering 438 members:

Thos. Donahuy, president.
Benj. F. Mehaney, vice-president.
John J. Lannegan, recording secretary.
John P. Kenney, corresponding secretary.
John C. Sullivan, financial secretary.
Daniel Murphy, ass't financial secretary.
Michael E. Stanton, treasurer.
Timothy Lear, masel.

In behalf of the Sarah Curren branch of the Ladies' Land League:

Mrs. Neary, president.
Miss Mary A. McFadden, vice-president.
Miss Ellen Fogarty, financial secretary.
Miss Mary A. Guilfoyle, recording sec'y.
Mrs. O'Donnell, treasurer.

Ladies' branch of I. N. L. L.:

Miss Maggie A. Lingane, president.
Miss Mary Murphy, first vice-president.
Miss Mary Freeley, second vice-president.
Miss Mary Malone, treasurer.
Miss Bridget A. Leary, recording sec'y.
Msss Julia Murphy, financial secretary.
Miss Nellie Kelley, corresponding secretary.

On behalf of St. John's Society:

Hugh McKevitt, president.
Daniel A. Sullivan, vice-president.
Maurice Shaughnessy, secretary.

Robert Emmet T. A. L. and B. Society:

William Moran, president.
James Driscoll, vice-president.
Martin Ryon, recording secretary.

On behalf of Division No. 1, Ancient Order of Hibernians, and 300 men of Fall River, Mass.:

John McCarty, president.
Thomas Madden, vice-president.
John J. Cummings, recording secretary.
John Stanton, financial secretary.
Richard Hinley, treasurer.

On behalf of Division No. 3, Ancient Order of Hibernians, of Fall River, Mass.:

Edward Driscoll, jr., president.
Michael D. Foley, vice-president.
James H. Ryder, recording secretary.
Dennis T. Sullivan, financial secretary.
Patrick J. Lee, treasurer.

No. 40.

Mr. Lowell to Earl Granville.

LEGATION OF THE UNITED STATES,
London, April 3, 1881. (Received April 4.)

MY LORD: I have the honor to acquaint you that I have received an application to intercede on behalf of Mr. Patrick Slattery, who is confined in Limerick County jail, under the protection of person and property act (Ireland), and who incloses a certificate of his naturalization as a citizen of the United States on the 17th December, 1872, which seems to be in proper form.

I have already communicated to your lordship a telegram which I received on the 4th March last, in which I was directed to say that the President hoped the lord-lieutenant of Ireland would be instructed to exercise the powers intrusted to him by the first section of the act in question, to order early trials in the cases of the suspects mentioned in that telegram, and in all other cases in which Americans might be arrested. I beg, therefore, that the President's request may be granted in the case of Mr. Slattery, who states that he has been imprisoned since the 25th July last.

I have, &c.,

J. R. LOWELL.

No. 41.

Earl Granville to Mr. West.

FOREIGN OFFICE, *April* 5, 1882.

SIR: I transmit herewith, for your information, a copy of a letter which I have received from the United States minister in London, pressing for the early trial of Mr. Patrick Slattery, a naturalized citizen of the United States, who is imprisoned in Limerick County jail, under the protection of person and property (Ireland) act, 1881.*

I am, &c.,

GRANVILLE.

No. 42.

Earl Granville to Mr. Lowell.

FOREIGN OFFICE, *April* 5, 1882.

SIR: I have the honor to acknowledge the receipt of your letter of the 3d instant, requesting that Mr. Patrick Slattery, a naturalized citizen of the United States, who is detained in Limerick County jail, under the protection of person and property (Ireland) act, 1881, may be brought to trial at an early date.

In reply, I have the honor to state to you that I have referred this matter to the proper department of Her Majesty's Government.

I have, &c.,

GRANVILLE.

No. 43.

Earl Granville to Mr. West.

FOREIGN OFFICE, *April* 6, 1882.

(For the text of this note, see Document No. 1 accompanying the letter of the Secretary of State, *ante*, p. —.)

No. 44.

Mr. West to Earl Granville.

WASHINGTON, *March* 28, 1882. (Received April 10.)

MY LORD: I have the honor to inclose herewith to your lordship printed copies of the message of the President to the Senate, transmitting papers relating to the imprisonment of Daniel McSweeney in Ireland.

I have, &c.,

L. S. SACKVILLE WEST.

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* No. 40.

[Inclosure in No. 44.—Ex. Doc No. 139.]

FORTY-SEVENTH CONGRESS, FIRST SESSION, SENATE.

Message from the President of the United States, transmitting, in response to Senate resolution of the 9th instant, a report from the Secretary of State, with accompanying papers, relating to the alleged imprisonment by the British Government of Daniel McSweeney, a citizen of the United States.

(Omitted.)

No. 45.

Mr. West to Earl Granville.

[Extract.]

WASHINGTON, *March* 28, 1882. (Received April 10.)

I have the honor to inclose to your lordship herewith, copy of a letter from one William Lane, an alleged British subject, in prison at Detroit, Mich., as well as copy of a note which in consequence I addressed to Mr. Frelinghuysen, requesting information as to the alleged statements made therein, and I have now the honor to inclose copy of the reply thereto.

[Inclosure 1 in No. 45.]

Mr. Lane to Mr. West.

WAYNE COUNTY JAIL, *Detroit, Mich., March* 22, 1882.

SIR: I am an Englishman, a native of Bristol, Gloucestershire, and claim your assistance under the following circumstances:

On the 18th June last I was arrested on a charge of attempted murder, and have since then been held in jail awaiting trial, which I am utterly unable to obtain. I have been taken into court eight or nine times, and always remanded on some pretext or other. I can easily prove my innocence if I have half a chance, but as I have no relations and no money I cannot get it. I have written to judge, prosecuting attorney, and the papers to demand the trial that I think I am entitled to, but this is such a free country that they do as they like, and do not like to give me one. A week ago I was in court and the judge promised to discharge me to-day if the prosecution would not go on with the case, but to-day I went down and was again remanded.

I am 20 years of age, a printer by trade, and have been four years in this country, coming to New York in January, 1878. I have never even been arrested before, and always bore a good character. The holding of me so is contrary to the laws of Michigan, and grossly unjust anyway. Will you please put a stop to this sort of thing as quickly as possible. If you write a line to the judge I think he will discharge me directly, and I would sooner it was done quietly, but anyway get me out of this. The judge's name is Chambers, Wayne circuit court, Detroit, Mich.

Hoping to have an answer by return, I remain, &c.,

WILLIAM LANE.

[Inclosure 2 in No. 45.]

Mr. West to Mr. Frelinghuysen.

WASHINGTON, *March* 24, 1882.

SIR: I have the honor to state to you that information has reached me respecting the imprisonment of a British subject named William Lane, in Wayne County jail, Detroit, Mich., from which it would appear that the arrest took place on the 18th June last, and that since that date Lane has been held in jail awaiting trial, which he asserts he is unable to obtain.

Under these circumstances I have recourse to your good offices, in order that inquiry may be made respecting this case.

I have, &c.,

L. S. SACKVILLE WEST.

[Inclosure 3 in No. 45.]

Mr. Frelinghuysen to Mr. West.

DEPARTMENT OF STATE,
Washington, March 28, 1882.

SIR: I had the honor to receive on the 25th instant your note of the 24th, in relation to the imprisonment at Detroit, Mich., of a British subject, named William Lane, who, it is stated, has been hitherto unable to obtain trial on the charge under which he has been held since the 18th June last. I immediately addressed a telegram to the attorney-general of the State of Michigan, acquainting him with the purport of your note, and expressing the desire of the President to learn the facts of the case, and to have the best exertions of the State authorities used to secure to Mr. Lane the early trial which he asserted he was unable to obtain.

I am now in receipt of a telegram of yesterday's date from Mr. J. J. Van Riper, the attorney-general of Michigan, who, it seems, at once went from the capital of the State to Detroit, to investigate the case in person. The facts, as very fully reported by Mr. Van Riper, are as follows:

William Lane, the accused, had formed an attachment for the wife of one George W. Allen, also a British subject. On the 16th June, 1881, Lane and Allen were out together in a boat. Lane prepared in a cup a drink which he represented to be lemon juice, but which contained a large quantity of morphine, and gave it to Allen, who swallowed the liquid. Violent vomiting ensued, which saved Allen's life, although his recovery was long despaired of, and he has not yet recovered from the effects of e poison.

thLane was arrested on the following day, 17th June, 1881. He made a written confession that he had poisoned Allen, adding that his intention was, when Allen should have become unconscious, to tip him out of the boat. He subsequently withdrew his confession, saying that he did not know what he said or wrote. Mr. Van Riper has seen this written confession.

Lane was arraigned for trial on the 29th September, 1881. Since that time repeated continuances have been had, but in every instance at the request of Lane's attorneys, and never on the application of the prosecution. The case is, however, now on trial; it was begun on Friday last, the 24th instant; was continued on Saturday, and was on trial yesterday. The State's attorney-general finds no blame attaching to the authorities for the delay in bringing Lane to trial. The low state of Allen, who was suffering from the poison, prevented the case from being set down for trial earlier than the 29th September, 1881, in the absence of the principal witness, while since that date the dilatory motions, as before said, have come wholly from the side of the defense.

I have acquainted Mr. Lowell by telegraph of the investigation ordered on receipt of your note and of its result, in order that Her Majesty's Government may see the jealous watchfulness which this government is disposed to exercise when the inherent right of any accused person, and especially a subject of a friendly state, to a speedy trial on the charges preferred, is in question.

I have, &c.,

FRED'K T. FRELINGHUYSEN.

No. 46.

Mr. Lowell to Earl Granville.

LEGATION OF THE UNITED STATES,
London, April 14, 1882. (Received April 15.)

MY LORD: I have the honor to acquaint you that I have received this morning two applications for my intervention from citizens of the United States who have been arrested under the protection of person and property act (Ireland) 1881. One of them is William Brophy, who sends his certificate of naturalization, and states that he was arrested on the 4th March last, and is confined in Naas jail. The other is John Leonard Gannon, who asserts that he was born at Hampton Hill, in the State of Connecticut, on the 13th December, 1852, and imprisoned in the jail at Galway on the 7th May, 1881, on suspicion of being one of an unlawful assembly. He says also that he knows nothing further of the charge against him or of his accuser.

I have no information of the causes why Brophy was arrested, but I shall write to our consul at Dublin to ascertain what is stated in the warrant on this subject, and I may have occasion to address your lordship again in relation to it.

In respect to the case of Mr. Gannon, his imprisonment has now continued for so long a period that I am sure your lordship will understand why I ask your attention to it with unusual earnestness.

It is so contrary to the spirit of English as well as of American law to keep a man in

prison for many months without any opportunity of confronting his accusers or of disproving the charges against him, that your lordship cannot be surprised at the great excitement which such cases as this of Mr. Gannon have occasioned in the United States, or at the instructions I have received from my government to ask respectfully that the accused parties may either be released or brought to trial.

I beg leave to repeat this request in the cases of Mr. Brophy and Mr. Gannon, as well as of other American citizens who have been imprisoned in Ireland, some of them for long periods of time.

I have, &c.,

J. R. LOWELL.

No. 47.

Mr. West to Earl Granville.

WASHINGTON, *April* 4, 1882. (Received April 17.)

MY LORD: I have the honor to report to your lordship that a bill has been introduced into the Senate by Senator Morgan, of Alabama, to define the rights of American citizens in and when residing in foreign countries. It sets forth that the rights of American citizenship in foreign countries, which are required to be protected in the manner and by the means provided in section 2001 of the Revised Statutes, extend to and include the right to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures, and the right to be exempt from domiciliary visits without legal warrant, according to the forms of law of the country in which they are dwelling; and the right on demand of themselves or counsel to be informed of the nature and cause of any accusation against them, when they are under arrest or are imprisoned upon a suspicion, or accusation, or charged of being guilty of any crime or offense against the laws of such foreign country; and the right of trial in such cases within a reasonable time to be confronted with witnesses against them, to have compulsory process for obtaining witnesses in their favor, and to have counsel for their defense. This bill was read and referred to the Committee on Foreign Relations.

I have, &c.,

L. S. SACKVILLE WEST.

No. 48.

Earl Granville to Mr. Lowell.

FOREIGN OFFICE, *April* 17, 1882.

SIR: I have had the honor to receive your letter of the 14th instant, calling my attention to the cases of Messrs. William Brophy and John Leonard Gannon, and other citizens of the United States of America, who are imprisoned in Ireland under the protection of person and property (Ireland) act, 1881.

In reply, I beg leave to state to you that I have caused your present application on behalf of these persons to be communicated to the proper department of Her Majesty's Government.

I have, &c.,

GRANVILLE.

No. 49.

Earl Granville to Mr. Lowell.

FOREIGN OFFICE, *April* 19, 1882.

SIR: With reference to my letter of the 29th ultimo, respecting the case of Mr. James L. White, a naturalized American citizen, who has been in custody under the protection of person and property (Ireland) act, 1881, I have the honor now to state to you that I am informed that after causing careful inquiry to be made orders were given by the Lord Lieutenant of Ireland for the discharge of this prisoner.

I have the honor further to observe, with reference to the last paragraph of your letter of the 28th ultimo, that his excellency has satisfied himself that there was no mistake whatever in the arrest of Mr. White, and that no undue severity was exercised toward him while in custody, but that, on the contrary, he was last month released on parole for ten days, on account of the illness of a relative.

I have, &c.,

GRANVILLE.

No. 50.

Mr. West to Earl Granville.

WASHINGTON, *April* 6, 1882. (Received April 24.)

MY LORD: At the request of the Secretary of State, I called upon him the day before yesterday, when he put into my hands a communication which he said he was about to make to the House of Representatives, and which, before doing so, he wished me to read, in order that it should not appear in print without my knowledge, as it related to what had passed between us respecting the Irish-American suspects. I thanked Mr. Frelinghuysen for his courtesy, and said that this communication would at all events evince the amicable spirit which animated the two governments.

I have the honor to inclose to your lordship printed copies of this document as it was presented to the House of Representatives.

I have, &c.,

L. S. SACKVILLE WEST.

[Inclosure in No. 50.—Newspaper extract.]

To the President:

The Secretary of State, to whom was referred the resolution of the House of Representatives of the 31st January last, requesting the President "to obtain a list of all American citizens, naturalized or native-born, under arrest or imprisonment by authority of the British Government, with a statement of the cause or causes of such arrest and imprisonment, and especially such of said citizens as may have been thus arrested and imprisoned under that suspension of the *habeas corpus* in Ireland, and, if not incompatible with the public interest, that he communicate such information, when received, to this House, together with all correspondence now on file in the Department of State relating to any existing arrest and imprisonment of citizens as aforesaid," has the honor to inform the President, in part response to this request of the House of Representatives, that for some time past active negotiations have been carried on between the two governments. These negotiations have been conducted in a spirit of entire friendship, and it affords the Secretary of State pleasure to acquaint the President that on the 2d instant information was received by the Department of State that all the American citizens held as prisoners in Ireland had been released except three, and that since that date the further information has reached him that O'Connor, Hart, Walsh, Dalton, and White are not now in prison The negotiations are still being conducted with a view to the release of the remaining prisoners, and the hope is entertained that a result will be reached satisfactory and honorable alike to both governments.

Respectfully submitted.

FRED'K T. FRELINGHUYSEN.

DEPARTMENT OF STATE,
Washington, April 4, 1882.

No. 51.

Mr. West to Earl Granville.

WASHINGTON, *April* 8, 1882. (Received April 24.)

MY LORD: I have the honor to transmit to your lordship herewith articles from the New York Tribune on the proceedings taken with regard to the Irish-American suspects. The tone of these articles is, on the whole, satisfactory, and would seem to indicate the general opinion that an unnecessary importance had been attached to a matter which was capable of an amicable arrangement.

I have, &c.,

L. S. SACKVILLE WEST.

[Inclosure 1 in No. 51.—Extract from the New York Tribune of April 5, 1882.]

THE IRISH-AMERICAN SUSPECTS.—The mass meeting at Cooper Institute calls upon the President to demand forthwith the prompt release of American citizens now unjustly deprived of liberty by the British Government. It bases its action upon section 2001 of the Revised Statutes of the United States, namely:

"Whenever it is made known to the President that any citizen of the United States has been unjustly deprived of his liberty by or under the authority of any foreign government, it shall be the duty of the President forthwith to demand of that government

the reasons of such imprisonment; and if it appear to be wrongful and in violation of the rights of American citizenship, the President shall forthwith demand the release of such citizen, and if the release so demanded is unreasonably delayed or refused, the President shall use such means, not amounting to acts of war, as he may think necessary and proper to obtain or effectuate the release; and all the facts and proceedings relative thereto shall, as soon as practicable, be communicated by the President to Congress."

Now, in the case of the Irish-American suspects, this statute—one of the most irrational acts ever passed by an incoherent Congress—is practically inoperative. These men have been legally arrested, whatever may be said as to the justice or injustice of the charges. They have been imprisoned under the coercion acts, which are now the public law of Ireland. Legally arrested, they have not been tried; and accordingly there has been no judical investigation which would enable the President to determine whether they have been justly or unjustly deprived of their liberty. It is utterly impossible for the President to decide whether the arrest of these suspects has been "wrongful" and in "violation of the rights of American citizenship," and consequently he cannot demand their release. Congress never has given and never can give the Executive the right to demand the unconditional release of an American citizen, naturalized or native-born, who has been legally arrested in another civilized state. If he has been illegally arrested, or if his innocence has been established after a judicial investigation, his release may be demanded, but not otherwise.

What, then, is it in the province of the Executive to demand in the case of the Irish-American suspects? Let their naturalization be assumed, and they must be held by Great Britain to be entitled to all the rights which have been guaranteed to citizens of the United States under the naturalization treaty. A fair and impartial trial in accordance with the local law that has been violated is one of those rights, and the Executive is justified in demanding it, for the suspects have been in prison many months. But in the proclaimed districts of Ireland the local law has been suspended. The government does not grant to its own subjects the privilege of a jury trial in those districts; and, indeed, a jury trial would not be a judicial process under the circumstances, for each and every suspect would be acquitted without regard to the facts of the case. A fair and impartial trial, by which the innocence or guilt of the accused can be ascertained, is simply out of the question. That is the one demand which our government is competent to make and it is one with which the British Government think it impossible to comply. They might as well discharge the American suspects outright.

Mr. Lowell, who has been denounced by Mr. Randall for his "sickening sycophancy to English influence," has treated this matter not as an English, Irish, or American question, but purely as a point of international law. He has had no sympathy with the coercion legislation, and has even taken pains to characterize it as exceptional and arbitrary. In his letter to the suspects who applied for his intervention, he says: "The chief object of these measures is to enable the authorities to arrest persons whom they suspect of illegal conduct, without being obliged to produce any proof of their guilt. Its very substance and main purpose are to deprive suspected persons of the speedy trial they desire. This law is, of course, contrary to the spirit and foundation principles of both English and American jurisprudence. But it is the law of the land, and it controls all persons domiciled in the proclaimed districts of Ireland, whether they are British subjects or not; and it is manifestly futile to claim that naturalized citizens of the United States should be exempted from its operation."

That law legalized the arrest of the suspects in districts where the writ of *habeas corpus* had been suspended, and where the natives were not allowed the privilege of a jury trial. To have demanded their unconditional release, when no discrimination had been made between them and the natives, would have been an open affront to a friendly power. What Mr. Lowell did was to follow the best precedents of criminal jurisdiction in international cases, several of which had been established during the American civil war, when British subjects were arbitrarily arrested and denied the privilege of trial. At the same time, he has conducted the negotiations with the foreign office with so much tact and decision that we are inclined to expect a speedy clearance of the Irish jails from suspects whose citizenship in the United States is authenticated. Whatever may be the privileges of the natives, the British Government are not likely to incur the odium of imprisoning foreigners for indefinite terms without trial. They will be glad to release them, if they can be assured that their naturalization papers shall not be used as a safe-conduct for conspiracy in the proclaimed districts of Ireland.

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[Inclosure 2 in No. 51.—Extract from the New York Tribune of April 6, 1882.]

Mr. Lowell's Success.—Mr. Lowell's negotiations for the release of the Irish-American suspects have been crowned with partial success. Before the mass meeting at Cooper Institute disgraced itself by heaping reproaches upon him, the Department

of State had received official information that all but three of these prisoners had been set at liberty in response to the request of the United States minister. The three suspects who have not been released are McSweeny, McEnery, and O'Mahoney. Two of these are undoubtedly naturalized citizens, and as such are entitled to a fair and impartial trial. The British Government is either unable or unwilling to order a judicial investigation, but it will not incur the odium of imprisoning the citizens of another state for an indefinite period. The leading English journals concede that any suspect whose naturalization in the United States can be established will be released if he agrees to leave the country; and the State Department has every reason to expect that this action will be speedily taken in these two cases. There is some doubt as to the validity of O'Mahoney's naturalization, but the chances are in favor of his release, as the British foreign office does not seem to be disposed to make an exception in his case on technical grounds if he will promise to leave Ireland as soon as he is released.

Mr. Frelinghuysen reports that the negotiations have been carried on between the two governments for some time "in a spirit of entire friendship." This result has been promoted by the cordial relations existing between Lord Granville and Mr. Lowell. The fact that our government has been represented in these negotiations by one of our foremost men of letters has been a most fortunate circumstance. Mr. Lowell had won the respect and admiration of the best men in English public life, and when he came to plead for these suspects his personal character and popularity were of direct service to them. Bluster and bad manners would have prolonged their imprisonment and disturbed the relations of the two countries. Mr. Lowell made, as our special cable dispatches have stated, every effort consistent with diplomatic usage, and at the same time performed a most delicate duty with such consummate tact as to remove all sources of irritation. The result has been that as soon as the formalities of proving the naturalization of the suspects have been complied with, all but three of them have been released, and the liberation of the remaining prisoners is confidently expected by the State Department.

The delicacy of Mr. Lowell's task will be better appreciated if the fact be borne in mind that the British Government is struggling hand over hand with a formidable conspiracy which has been directly promoted by the Irish citizens of the United States. The passage of the land act would have paralyzed the League if the Parnellites had not been forced by pressure from this side of the ocean to denounce it and to proclaim the repudiation of rent-paying. It has been moral and pecuniary support from the American base of supplies which has enabled the agitators to defy the Liberal Government and to prolong indefinitely a blustering period of lawlessness and anarchy in Ireland. Not a week passes but there are cowardly assassinations and revolting crimes committed in every quarter of the island. Tenants whose sole offense is a disposition to pay their debts and to live in peace with their landlords are murdered in cold blood. Land agents are fired at from hedges, and innocent women are butchered in the high roads. We do not say that the Land League organization and its American contributors are responsible for the shocking crimes; but it cannot be denied that they have delayed the pacification of the island which might have been effected under the beneficent clauses of the land act, and by prolonging the agitation have multiplied opportunities for agrarian horrors.

Is it to be wondered at that the British Government should have hesitated before releasing suspects whose only claim for consideration was a questionable citizenship in the United States? The money contributed for the cause could not be intercepted; the patriotic sympathy and moral support could not be counteracted; but those who came from America to instigate revolution and crime must share the risks with native conspirators. This being the English view of the case, diplomatic intervention in behalf of the suspects was extremely likely to excite intense irritation. If, therefore, Mr. Lowell has dispatched the business, rescued the prisoners, and asserted the rights of American citizenship, without causing bitterness or estrangement between the two governments, he is entitled to the gratitude of Americans and Englishmen alike. If his intellectual attainments, his graces of manner, and his personal friendships in English society have contributed to that end, it was not a mistake to send to the court of St. James an American gentleman.

No. 52.

Mr. West to Earl Granville.

WASHINGTON, *April* 11, 1882. (Received April 24.)

MY LORD: With reference to my dispatch of the 28th ultimo, I have the honor to inclose herewith to your lordship copy of a further note which I have received from the Secretary of State respecting the imprisonment of William Lane.

From the correspondence inclosed in your lordship's dispatch of the 29th ultimo, it would seem that Mr. Frelinghuysen, in his communications with Mr. Lowell, sought to connect this case with the question of the release of the Irish-American suspects, as I anticipated he might do, as reported to your lordship in my above-mentioned dispatch.

I have, &c.,

L. S. SACKVILLE WEST.

[Inclosure in No. 52.]

Mr. Frelinghuysen to Mr. West.

DEPARTMENT OF STATE,
Washington, April 10, 1882.

SIR: Referring to my reply of the 28th ultimo to your note of the 24th of that month, in relation to the imprisonment of a British subject named William Lane, at Detroit, Mich., I now have the honor to inform you that I have received a letter from the attorney-general of Michigan, in which that officer states that the prisoner in question has been convicted of an assault with intent to murder.

I have, &c.,

F. T. FRELINGHUYSEN.

APPENDIX.

No. 1.

The Earl of Clarendon to Sir F. Bruce.

FOREIGN OFFICE, *April* 14, 1866.

SIR: Mr. Adams called upon me three days ago and read to me a confidential dispatch from Mr. Seward respecting the Fenian agitation.

Mr. Seward said that he did not think that either time or occasion had arrived for making any communication on the subject to Her Majesty's Government, but in view of the news which had arrived of the suspension of the act of *habeas corpus* in Ireland, Mr. Seward thought Mr. Adams ought to be informed of the sentiments of the President in regard to Fenianism.

The Fenian excitement in the United States was, Mr. Seward said, a political question, exclusively affecting Ireland as one of the United Kingdoms. Those engaged in the agitation were, as a general rule, native Irishmen, of whom some had, while others had not, become naturalized in the United States. In moving, controlling, and directing the Fenian agitation these persons were influenced by feeling, sentiments, and views which they cherish as Irishmen, notwithstanding their change of domicile or place of residence or citizenship. In a word, the Fenian was a British, and not an American movement.

The only question for the United States Government, Mr. Seward said, was not whether the motives or designs of these agitations in regard to Ireland were just, wise beneficent, and humane, or the reverse, but whether, in seeking to promote their designs, they commit any violation of the laws of the United States which have been adopted to prevent military or naval aggression against nations with whom the United States are at peace.

Thus far, Mr. Seward said, no such violation of the law had been brought to the knowledge of the United States Government, either by its own agents or by the British Legation, and it did not appear to the United States Government to be wise to denounce the proceedings of the agitators so long as they were confined within those limits of moral agitation recognized equally by the United States and Great Britain as legitimate.

It was not unreasonable to suppose that any unlawful enterprises against Ireland and the Colonies contrived in the United States would prove abortive and even absurd unless the movement had some connection with an uprising in the country to be invaded. It was not for the United States Government to pronounce upon the improbability or otherwise of such an uprising in Ireland. It was, however, reasonable to suppose that if anything of the sort was contemplated, the suspension of the act of *habeas corpus* would bring matters to a crisis, and if no uprising had taken place, it might be supposed either that such a movement had not been meditated, or that it had been averted. In either case it was not to be apprehended that a violation of United States neutrality would now be committed. On the other hand, if any insurrection should have already broken out in Ireland, it would be by no means the purpose or policy of the United

States to suffer their own laws to be violated, and their dignity and honor to be compromised.

Mr. Seward further said that it might be expected that some Irish-born but naturalized American citizens who might be now sojourning or traveling in Ireland would be arrested upon complaints of complicity in seditious proceedings. Of these, some would probably be innocent, and others guilty. The situation would thus for a time necessarily become inconvenient and embarrassing; but Mr. Seward frankly admitted that Americans, whether native born or naturalized, owe submission to the same laws in Great Britain as British subjects while residing there and enjoying the protection of the British Government, and Mr. Seward added that the United States Government has applied the converse of that principle to British subjects who were sojourning or traveling in the United States during the late rebellion.

Mr. Adams was, therefore, to give a careful examination to each complaint, dealing at all times frankly with the British Government, and asking on their part strict justice where American citizens were concerned.

I told Mr. Adams that I had listened with much satisfaction to the views and opinions of Mr. Seward, as stated in the dispatch which he had just read to me, and that I trusted that both the state of Ireland and the prudence of the lord lieutenant would prevent any difference between Her Majesty's Government and that of the United States upon a question involving a principle, the discussion of which, in connection with Fenianism, it would be desirable not to enter upon.

I have, &c.,

CLARENDON.

No. 2.

Convention between Her Majesty and the United States of America relative to naturalization. Signed at London May 13, 1870.

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and the President of the United States of America, being desirous to regulate the citizenship of British subjects who have emigrated or who may emigrate from the British dominions to the United States of America, and of citizens of the United States of America who have emigrated or who may emigrate from the United States of America to the British dominions, have resolved to conclude a convention for that purpose, and have named as their plenipotentiaries, that is to say:

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, the right honorable George William Frederick, Earl of Clarendon, Baron Hyde of Hindon, a Peer of the United Kingdom, a member of Her Britannic Majesty's most honorable Privy Council, knight of the most noble Order of the Garter, knight Grand Cross of the most honorable Order of the Bath, Her Majesty's principal secretary of state for foreign affairs;

And the President of the United States of America, John Lothrop Motley, esquire, envoy extraordinary and minister plenipotentiary of the United States of America to Her Britannic Majesty;

Who, after having communicated to each other their respective full powers, found to be in good and due form, have agreed upon and concluded the following articles:

ARTICLE I.

British subjects who have become, or shall become, and are naturalized according to law within the United States of America as citizens thereof, shall, subject to the provisions of Article II, be held by Great Britain to be in all respects, and for all purposes, citizens of the United States, and shall be treated as such by Great Britain.

Reciprocally, citizens of the United States of America who have become, or shall become, and are naturalized according to law within the British dominions as British subjects, shall, subject to the provisions of Article II, be held by the United States to be in all respects and for all purposes British subjects, and shall be treated as such by the United States.

ARTICLE II.

Such British subjects, as aforesaid, who have become and are naturalized as citizens within the United States, shall be at liberty to renounce their naturalization and to resume their British nationality, provided that such renunciation be publicly declared within two years after the twelfth day of May, 1870.

Such citizens of the United States as aforesaid who have become and are naturalized within the dominions of Her Britannic Majesty as British subjects, shall be at liberty to renounce their naturalization, and to resume their nationality as citizens of the

United States, provided that such renunciation be publicly declared within two years after the exchange of the ratifications of the present convention.

The manner in which this renunciation may be made and publicly declared shall be agreed upon by the governments of the respective countries.

ARTICLE III.

If any such British subject as aforesaid, naturalized in the United States, should renew his residence within the dominions of Her Britannic Majesty, Her Majesty's Government may, on his own application and on such conditions as that government may think fit to impose, readmit him to the character and privileges of a British subject, and the United States shall not, in that case, claim him as a citizen of the United States on account of his former naturalization.

In the same manner, if any such citizen of the United States, as aforesaid, naturalized within the dominions of Her Britannic Majesty, should renew his residence in the United States, the United States Government may, on his own application and on such conditions as that government may think fit to impose, readmit him to the character and privileges of a citizen of the United States, and Great Britain shall not, in that case, claim him as a British subject on account of his former naturalization.

ARTICLE IV.

The present convention shall be ratified by Her Britannic Majesty and by the President of the United States, by and with the advice and consent of the Senate thereof, and the ratification shall be exchanged at London as soon as may be within twelve months from the date hereof.

In witness whereof the respective plenipotentiaries have signed the same, and have affixed thereto their respective seals.

Done at London the thirteenth day of May, in the year of our Lord one thousand eight hundred and seventy.

[L. S.] CLARENDON.
[L. S.] JOHN LOTHROP MOTLEY.

No. 3.

Convention between Her Majesty and the United States of America, supplementary to the convention of May 13, 1870, respecting naturalization.—Signed at Washington, February 23, 1871.

Whereas by the second article of the convention between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and the United States of America for regulating the citizenship of subjects and citizens of the contracting parties who have emigrated or may emigrate from the dominions of the one to those of the other party, signed at London on the 13th May, 1870, it was stipulated that the manner in which the renunciation by such subjects and citizens of their naturalization, and the resumption of their native allegiance, may be made and publicly declared, should be agreed upon by the governments of the respective countries; Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and the President of the United States of America for the purpose of effecting such agreement, have resolved to conclude a supplemental convention, and have named as their plenipotentiaries, that is to say: Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Sir Edward Thornton, knight commander of the most honorable Order of the Bath, and her envoy extraordinary and minister plenipotentiary to the United States of America, and the President of the United States of America, Hamilton Fish, Secretary of State, who have agreed as follows:

ARTICLE I.

Any person being originally a citizen of the United States who had, previously to the 13th May, 1870, been naturalized as a British subject, may at any time before the 10th August, 1872, and any British subject who, at the date first aforesaid, had been naturalized as a citizen within the United States, may, at any time before the 12th May, 1872, publicly declare his renunciation of such naturalization by subscribing an instrument in writing, substantially in the form hereunto appended and designated as Annex (A).

Such renunciation by an original citizen of the United States of British nationality shall, within the territories and jurisdiction of the United States, be made in dupli-

cate, in the presence of any court authorized by law for the time being to admit aliens to naturalization, or before the clerk or prothonotary of any such court; if the declarant be beyond the territories of the United States, it shall be made in duplicate before any diplomatic or consular officer of the United States. One of such duplicates shall remain of record in the custody of the court or officer in whose presence it was made; the other shall be, without delay, transmitted to the Department of State.

Such renunciation, if declared by an original British subject, of his acquired nationality as a citizen of the United States, shall, if the declarant be in the United Kingdom of Great Britain and Ireland, be made in duplicate, in the presence of a justice of the peace; if elsewhere in Her Britannic Majesty's dominions, in triplicate, in the presence of any judge of civil or criminal jurisdiction, of any justice of the peace, or of any other officer for the time being authorized by law, in the place in which the declarant is, to administer an oath for any judicial or other legal purpose; if out of Her Majesty's dominions, in triplicate, in the presence of any officer in the diplomatic or consular service of Her Majesty.

ARTICLE II.

The contracting parties hereby engage to communicate each to the other, from time to time, lists of the persons who, within their respective dominions and territories, or before their diplomatic and consular officers, have declared their renunciation of naturalization, with the dates and the places of making such declarations, and such information as to the abode of the declarants, and the times and places of their naturalization, as they may have furnished.

ARTICLE III.

The present convention shall be ratified by Her Britannic Majesty and by the President of the United States, by and with the advice and consent of the Senate thereof, and the ratifications shall be exchanged at Washington as soon as may be convenient.

In witness whereof, the respective plenipotentiaries have signed the same, and have affixed thereto their respective seals.

Done at Washington, the twenty-third day of February, in the year of our Lord one thousand eight hundred and seventy-one.

[L. S.] EDWD. THORNTON.
[L. S.] HAMILTON FISH.

ANNEX (A).

I, A. B., of (*insert abode*), being originally a citizen of the United States of America (*or a British subject*), and having become naturalized within the dominions of Her Britannic Majesty as a British subject (*or as a citizen within the United States of America*), do hereby renounce my naturalization as a British subject, (*or citizen of the United States*), and declare that it is my desire to resume my nationality as a citizen of the United States (*or British subject*).

(Signed) *A. B.*

Made and subscribed before me, ——— ———, in (*insert country or other subdivision, and State, province, colony, legation, or consulate*), this —— day of ———, 187—.

(Signed) *E. F.,*
Justice of the Peace (or other title).

[L. S.] EDWD. THORNTON.
[L. S.] HAMILTON FISH.

[Inclosure 2 in No. 351.]

Mr. Brophy to Mr. Barrows.

NAAS PRISON, *April* 6, 1882.

MR. CONSUL—SIR: I was arrested on the 4th of March last, on the lord lieutenant's warrant. I now demand the protection of the American Government as an American citizen either to have my release or a speedy trial. I inclose my papers of citizenship.

WILLIAM BROPHY.

(Inclose certificate of supreme court of New York of citizenship of William Brophy, dated October 9, 1868.)

Above forwarded by Consul Barrows April 12, 1882.

[Inclosure 3 in No. 351.]

Mr. Lowell to Mr. Barrows.

UNITED STATES LEGATION,
London, April 14, 1882.

B. H. BARROWS, Esq.,
United States Consul, Dublin, Ireland:

SIR: I have to acknowledge the reception of your letter of the 12th, inclosing communications from William Brophy, at present confined in Naas jail, with a copy of his naturalization certificate, and from John L. Gannon, imprisoned in Galway.

I shall give my attention to these cases. Meanwhile will you kindly inform me the cases stated in the warrant for Brophy's arrest.

I am, &c.,

J. R. LOWELL.

[Inclosure 4 in No. 351.]

Mr. Gannon to Mr. Barrows.

THE JAIL, GALWAY, *April* 8, 1882.

THE AMERICAN CONSUL,
Consulate, Dublin:

SIR: As I observe by the newspapers that representations are being made by the American Government on behalf of the American citizens who are imprisoned under "coercion act" in Ireland, I beg to put the facts of my case in your hands, that you may have attention drawn to it through Mr. Lowell, the American minister. I am imprisoned in this jail, under the "coercion act," since May 7, 1881, on suspicion of being one of an unlawful assembly. I have never been brought to trial, nor do I know anything of the charge against me, nor of my accuser.

I am a native American citizen, having been born at Hampton Hill, State of Connecticut, on the 13th December, 1852. My birth was duly recorded by Dr. Dyer Hughes. The governor of the State at the time was, I think, Governor Cleveland. Will you kindly forward these facts at once to the proper quarter, and have attention drawn to my case, as I am now eleven months imprisoned here without trial.

A note in reply will confer a favor on

Yours, &c.,

JOHN LEONARD GANNON.

(Forwarded by Consul Barrows, April 12, 1882.)

[Inclosure 5 in No. 351.]

Mr. Slattery to Mr. Lowell.

LIMERICK JAIL, *April* 18.

J. R. LOWELL, Esq.:

HONORED SIR: I received your letter of the 4th of April, stating that you brought my case to the attention of the British Government, and I am extremely obliged to you for doing so. But I have not heard a word from the British Government since about it. And I again ask you with the greatest confidence to call their attention again to it, and to get me a speedy trial at once, or else an unconditional release.

Hoping to hear from you again at your earliest convenience,

I have, &c.,

PATRICK SLATTERY.

[Inclosure 6 in No. 351.]

Mr. O'Mahony to Mr. Lowell.

MONAGHAN PRISON, 20*th April*, 1882.

HONORABLE SIR: Herewith inclosed is my naturalization papers for your consideration; kindly let me know if I am entitled to the protection of an American citizen or not; if I am, I would wish to be granted a right of trial, as I have over eight months spent in prison as a reasonable suspect. If I am not entitled to the protection of an

American citizen kindly return me my papers and state your objections. I am necessarily compelled to forward this letter through my wife in order to forward the papers and get it registered.

A reply at your earliest convenience will oblige,

Yours, respectfully,

HENRY O'MAHONY.

To Minister LOWELL,
United States Consul, London.

(Inclosure:) A certificate from the court of Erie County, New York, of Henry O'Mahony's citizenship, dated February 25, 1880.

[Inclosure 7 in No. 351.]

Mr. Lowell to Mr. O'Mahony.

LEGATION OF THE UNITED STATES,
London, April 26, 1882.

Mr. HENRY O'MAHONY,
Monaghan Prison:

SIR: I have to acknowledge the reception this day of your letter of the 20th instant, inclosing a certificate from Erie County court, New York, of the naturalization of Henry O'Mahony, and I beg to say that your case, with that of others, is under consideration at the Department of State at Washington.

I am, your obedient servant,

J. R. LOWELL.

[Inclosure 8 in No. 351.]

Mr. Lynam to Mr. Lowell.

NAAS JAIL, *April* 22, 1882.

SIR: I beg to inform you I served the United States flag in the Regular Army, and was honorably discharged at Fort (illegible) August 5, 1870. I served in Capt. Charles A. Wikoff's company, E, Eleventh Infantry; the late General Gillam was my colonel; I held the rank of first sergeant. I am now detained as a suspect in a British jail. I trust you will demand my trial or release. It is disgraceful the way Americans are treated. I am a citizen of the United States, but I lost my papers. If you will kindly communicate with the War Department at Washington, you will find my statement correct. I have written to the chief secretary for Ireland about the matter. I hope you will bring my case under his notice.

Respectfully, yours,

JAMES LYNAM.

[Inclosure 9 in No. 351.]

Mr. Lowell to Mr. Lynam.

LEGATION OF THE UNITED STATES,
London, April 25, 1882.

SIR: I have the honor to acknowledge the reception of your letter of the 22d instant.

It will be necessary before I can make any application on your behalf that I should have the proper proof that you are a citizen of the United States.

It will not be sufficient for me to obtain from the War Department at Washington a statement that you have served in the United States Army, and were honorably discharged. This service does not make you a citizen, although it facilitates your application to become one.

It will be necessary for me to have the original or a certified copy of the order for your naturalization.

Will you, therefore, kindly obtain from the court in the United States in which this order was obtained a certified copy of it and forward the same to me.

I am, your obedient servant,

J. R. LOWELL.

[Inclosure 10 in No. 351.]

THE PRISON MONAGHAN,
May 1, 1882.

DEAR SIR: I see by the Freeman Journal of the 27th of April, where Mr. Orth stated, during the debate on American citizens confined in British prisons, that I held an office in Great Britain when arrested.

Now, sir, I claim that whatever source Mr. Orth received such information from misinformed him; and in justice to me I must respectfully ask you to contradict it.

When Colonel Brooks (United States consulate at Queenstown) called on me last June at Limerick prison, Mr. Eagan (who is governor of that prison) tried to prejudice my case by saying that I held an office in this country, and evidently whoever furnished Mr. Orth or the Department of State at Washington with such information, was prompted by the same motives.

The position I held then and *does* hold now (and which I explained to Colonel Brooks) is that of a poor-law guardian; it is a position that an American, German, Russian, or any other man may hold, provided he resides in the township, occupies premises rated to a certain amount, and elected by the people. His duty is to administer to the wants of the poor for a period of not over one year, except *rellected:* he receives no remuneration for his services, and no oaths of office required; therefore I cannot see how it could prejudice my *cas* as far as claiming protection as an American citizen; on the contrary, it clearly proves that I don't belong to the class which coercion was intended, viz, village tyrants and dissolute ruffians, as no man is elected to that position except a respectable man and a man who possesses the confidence of the people.

And it seems that all the information that could possibly be furnished from this side of the Atlantic to the Department of State at Washington to prejudice the cases of American citizens confined in British prisons has been furnished, and hence our long confinement without trial.

I would respectfully draw your attention to a *cumunication* of mine last July, requesting you to grant me a trial, which I believed then and now I ought to be entitled to. Your reply was that I should show there was some exceptional injustice done me before calling on you to intervene, and also that, in your opinion, when a man violates the law of the country he should be held amenable to the law he violated. In reply to the first part of your letter, it was impossible for me to show the injustice done me while I was locked in a convict's cell, deprived of all communication with the outer world, even to a member of the United States House of Representatives or the British House of Commons.

As to the second part of your letter, if, as you imagine, I was guilty of violating the law, why not grant me a trial, convict, and punish me. It is true I have been punished severely, but without crime, trial, or conviction, and I challenge the British Government to-day to grant me an impartial trial and prove that I have violated the laws of any civilized country.

In your letter of the 25th instant you stated that my case was under consideration at the Department of State at Washington. I claim, sir, that it is impossible for my case to be favorably considered while representations are made to them that I hold an office in Great Britain, and consequently I am not entitled to the protection of an American citizen, and probably they (the Department of State) considers the source from which they receive their information from reliable. Therefore, I must again ask you, in justice to me, and I hope in the discharge of your own duty, immediately contradict such misrepresentation.

I am, sir, yours, respectfully,

HENRY O'MAHONY.

J. R. LOWELL,
United States Ambassador, London.

No. 126.

Mr. Frelinghuysen to Mr. Lowell.

No. 368.] DEPARTMENT OF STATE,
Washington, D. C., May 8, 1882.

SIR: Mr. Sackville West has handed me copies of two dispatches from Lord Granville to him respecting the Clayton-Bulwer treaty; the first, dated 7th January last, comments upon Mr. Blaine's 270 of the

19th of November; the second, of the 14th January, comments upon Mr. Blaine's 281 of the 29th November.

They have been read with interest and with attention. After careful consideration, the President is not without hope that the views of the two governments may be harmonized in this matter. He therefore directs me to communicate to you, somewhat at length, the opinions entertained here respecting the traditional continental policy of the United States and the Clayton-Bulwer treaty.

A canal across the isthmus for vessels of all dimensions and every character, under possible conditions hereinafter referred to, would affect this republic in its trade and commerce; would expose our Western coast to attack; destroy our isolation; oblige us to improve our defenses and to increase our Navy, and possibly compel us, contrary to our traditions, to take an active interest in the affairs of European nations. The United States, with their large and increasing population and wealth, cannot be uninterested in a change in the physical conformation of this hemisphere which may injuriously affect either the material or political interests of the republic, and naturally seek that the severance of the isthmus connecting the continents shall be effected in harmony with those interests. This government, while believing that the isthmus should not be severed so as to do unnecessary injury to the United States, at the same time appreciates the desire of Great Britain that she should be able by a short and easy passage from ocean to ocean to reach her eastern and American possessions on the Pacific, and that other nations of the world have a similar interest in such a passage. There is, however, no necessary conflict between the political claims of the United States in this matter and the material interests of other nations.

A canal across the isthmus can be created, and, under the protectorate of the United States and the republic whose territory it may cross, can be freely used by all nations; thus in some degree would be continued to the United States the benefit of that conformation of the earth which is now an element of security and defense.

For thirty years the Panama Railroad has been maintained without other protection than that of the United States and the local sovereign, in accordance with the treaty of 1846 with New Granada.

During that period Great Britain has carried to a successful result the wars of the Crimea and the Indian mutiny; France has three times convulsed Europe with strife; a conflict between Russia and Turkey has changed the face of the Ottoman Empire; thrones have crumbled; empires have been constructed; republics have arisen, while on this continent the most remarkable civil war in history has occurred, and at the same time the Emperor of the French was lending his active support to an aspirant for imperial honors in the neighboring republic of Mexico. Within that period almost every form of war and strife has taken place that would seem to make especially necessary the neutralization of the isthmus, and yet the trains of the Panama Railroad have run from ocean to ocean peacefully and with no other interruption than what has come from the rare turbulence of the local population.

During the same time another isthmus has been pierced, and while wars have raged within sight of the Mediterranean port the peaceful commerce of the world has moved through the Suez Canal quietly and safely under no international protectorate.

If no guarantee or protectorate has been found necessary during such troubled times, it can scarcely be required in the more peaceful period which both the Government of the United States and that of Great Britain hope and strive for.

The President, therefore, considers it unnecessary and unwise, through an invitation to the nations of the earth, to guarantee the neutrality of the transit of the isthmus, to give their natives a pretext for assembling in waters contiguous to our shores, and to possibly involve this republic in conflicts from which its natural position entitles it to be relieved.

It will doubtless occur to Lord Granville, as it does to us, that international agreements of this kind, calling for interference by force, and conferring joint rights upon several independent powers, are calculated to breed dissension and trouble. In times of peace, when there is no call for their exercise, they are harmless though useless. But when wars and trouble come, it too frequently happens that differences arise, and so at the very moment when the agreement should be enforced it is impossible to enforce it; and such agreements would lead to that political intervention in American affairs which the traditional policy of the United States make it impossible that the President should either consent to or look upon with indifference.

The President believes that the formation of a protectorate by European nations over the isthmus transit would be in conflict with a doctrine which has been for many years asserted by the United States. This sentiment is properly termed a doctrine, as it has no prescribed sanction and its assertion is left to the exigency which may invoke it. It has been repeatedly announced by the Executive Department of this government and through the utterances of distinguished citizens; it is cherished by the American people, and has been approved by the Government of Great Britain.

It is not the inhospitable principle which it is sometimes charged with being, and which asserts that European nations shall not retain dominion on this hemisphere, and that none but republican governments shall here be tolerated; for we well know that a large part of the North American continent is under the dominion of Her Majesty's Government, and that the United States were in the past the first to recognize the imperial authority of Dom Pedro in Brazil and of Iturbide in Mexico. It is not necessary now to define that doctrine, but its history clearly shows that it at least opposes any intervention by European nations in the political affairs of American republics.

In 1823, Mr. Canning, with the concurrence of the cabinet of London, informed Mr. Rush that Great Britain could not see with indifference the intervention of foreign powers in Spanish America, or the transfer to those powers of any of the colonies, and suggested a joint declaration to that effect by the United States and Great Britain. This suggestion grew out of the relations then existing between France and Spain, their attitude towards the South American republics then struggling for independence, and the injuries to the colonies and commerce of Great Britain which would result from a successful prosecution of the policy of those two governments. President Monroe did not adopt the proposal for a joint declaration, but in his message of December 2, 1823, after stating that it was our policy not to interfere with the internal concerns of European powers, speaking of the war which the revolted colonies were carrying on against Spain, and of contemplated interference by the "Holy Alliance" in behalf of the latter, said, in language which has gone into history under his name, thus:

> But in regard to these continents circumstances are eminently and conspicuously different. It is impossible that the allied powers should extend their political system to any portion of either continent without endangering our peace and happiness, nor

can any one believe that our southern brethren, if left to themselves, would adopt it of their own accord. It is equally impossible, therefore, that we should behold such interposition in any form with indifference.

This sentiment was received in England with enthusiasm. Mr. Brougham said:

The question in regard to Spanish America is now, I believe, disposed of, or nearly so; for an event has recently happened than which none has ever dispersed greater joy, exultation, and gratitude over all the freedmen of Europe; that event which is decisive on the subject is the language held with respect to Spanish America in the message of the President of the United States.

Sir James Mackintosh said:

This evidence of the two great English commonwealths (for so I delight to call them, and I heartily pray that they may be forever united in the cause of justice and liberty) cannot be contemplated without the greatest pleasure by every enlightened citizen of the earth.

Mr. John Quincy Adams, who well knew what had led to these statements by Mr. Monroe, explained in a message to the House of Representatives on the 17th day of March, 1826, that there was no purpose of interfering with the existing European colonies in America; that the language was only a frank declaration that the United States could not look with indifference either upon an attempt by colonization to close any port of the continent against the commerce of the United States or upon concerted political interference from Europe in American affairs.

Thus the doctrine of non-intervention by European powers in American affairs arose from complications in South America, and was announced by Mr. Monroe on the suggestion of the official representative of Great Britain.

The doctrine so formulated by Monroe and expounded by Adams has since remained a cardinal principle of our continental policy. In several notable instances, especially in the case of the French attempt to set up imperial authority in Mexico, it guided our political action, and it is to day firmly imbedded in the American heart.

It is true that this doctrine refers to the political, and not to the material interest of America; but no one can deny that to place the isthmus under the protection and guarantee of the powers of Europe, rather than under the protection of the leading power of this hemisphere, would seriously threaten and affect the political interest of that power.

It is not to be anticipated that Great Britain will controvert an international doctrine which she suggested to the United States when looking to her own interest, and which, when adopted by this republic, she highly approved; and it is but frank to say that the people of this country would be as unwilling that the pathway of commerce between the Pacific coast and our eastern market should be under the dominion of the allied European powers as would be the people of Great Britain that the transit from one to another part of her possessions should be under such control.

Prior to the war of the Revolution, Great Britain had acquired strong positions from Halifax to Antigua, dominating the coast of the United States. She retained these positions after the peace of 1783, and continues to use them for offensive and defensive purposes. She has strengthened old strongholds and made new ones, while the United States has ever refused to avail itself of proffered commanding external military stations.

No well-informed statesman doubts the ability of this nation to raise

a powerful navy. To raise such a navy might bring commercial advantages to the United States, but it is doubtful whether it would promote the peace of the world; and the United States desire that their citizens may, without any armed assertion of right, be conveyed by water transit from their western to their eastern shores without passing under the guns of European powers.

These are our own views, and it is but frank to state them, while Her Majesty's Government is not called upon either to admit or deny them.

To considerations such as these Lord Granville, in his dispatch of November 10, 1881, answers that the position of Great Britain and the United States, in reference to the canal, is determined by the—

> engagements entered into by them respectively in the convention, which was signed at Washington on the 19th of April, 1850, commonly known as the Clayton-Bulwer treaty, and that Her Majesty's Government rely with confidence upon the observance of all the engagements of that treaty.

We are thus fairly brought to the consideration of the Clayton Bulwer treaty.

The treaty relates to communication between the oceans, and divides itself into two parts.

First, and principally, that which the treaty terms a "particular object," to wit, a then projected interoceanic canal in Central America by the Nicaragua route; and this is the only object stated in the preamble of the treaty; which says that the two governments, "being desirous of consolidating the relations of amity which so happily subsist between them, by setting forth and fixing in a convention their views and intentions with reference to any means of communication by ship-canal which may be constructed between the Atlantic and Pacific Oceans by the way of the river San Juan de Nicaragua and either or both of the lakes of Nicaragua or Managua to any port or place on the Pacific Ocean," to that end confer full powers on Mr. Clayton and Sir Henry Bulwer.

This first and principal object of the treaty is considered in the first seven articles.

Second, the subordinate object of the treaty is that treated of in the remaining or eighth article, which states that the two governments "having not only desired, in entering into this convention, to accomplish a *particular object*, but also to establish a general principle (and this is the principle), hereby agree to extend their protection by treaty stipulation to any other practical communication" across the isthmus, "and especially to the interoceanic communications, should the same prove practicable, whether by canal or railroad, which are now proposed to be established by the way of Tehuantepec or Panama." This "general principle" or joint protection is to be effected as stated, "by treaty stipulations."

Although this discussion relates to a canal by the Panama route outside of Central America, to which the eighth article refers, yet your attention is invited as well to the first and principal as to the second and subordinate purpose of the treaty.

First. While the primary object of the treaty, as will be seen, was to aid the immediate construction of a canal by what is known as the Nicaragua route, it is equally plain that another and important object, which the United States had in view, was to dispossess Great Britain of settlements in Central America, whether under cover of Indian sovereignty or otherwise. The United States were tenacious that Great Britain should not extend further her occupation of threatening military

or naval strategic points along their maritime frontier. To assure this, the parties to the treaty jointly agreed not to exercise dominion over, or fortify or colonize Nicaragua, Costa Rica, the Mosquito Coast, or any part of Central America. Great Britain, however, exercises dominion over Belize or British Honduras, the area of which is equal to that of Massachusetts, Connecticut, and Rhode Island, and the impression prevails that since the conclusion of the treaty of 1850 the English inhabitants of that district have spread into the territory of the neighboring republics and now occupy a large area of land which, under the convention, belongs to one or the other of the two republics, but over which the government of Her Majesty assumes to exercise control.

Such dominion seems to be inconsistent with that provision of the treaty which prohibits the exercise of dominion by Great Britain over any part of Central America. This makes it proper for me to say that the English privileges, at the time of the conclusion of the Clayton-Bulwer treaty, in what has been known as the Belize, were confined to a right to cut wood and establish saw-mills in a territory defined by metes and bounds. These privileges were conferred by treaties, in which Spanish sovereignty was recognized. On the successful revolution, the rights of Spain vested in the new republics, and had not been materially changed when the Clayton-Bulwer treaty was concluded. That treaty was concluded April 19, and its ratification advised by the Senate May 22, 1850. On the exchange of the ratifications, Sir Henry Bulwer filed in this Department, under date of June 29, 1850, a declaration that the exchange was made with the understanding on the part of Her Majesty's Government that the treaty did not apply to Her Majesty's *settlement* at Honduras, and its dependencies. Mr. Clayton answered, under date of July 4, 1850, that he so understood, but that he must not be understood to either affirm or deny British title therein. It is to be observed that each of these declarations was made after the conclusion of the treaty by the joint action of the President and the Senate, and that the declaration was not made to or accepted by them. In 1859 Great Britain entered into a treaty with Guatemala, in which what had been called the *settlement* in the declaration made on the exchange of the ratification of the Clayton-Bulwer treaty was styled "Her Britannic Majesty's settlement and possessions."

In the treaty with Guatemala the boundaries were defined, and it was agreed that all on one side of the defined boundaries "belongs to Her Britannic Majesty." It is further understood that when the commissioners met to mark the boundary in accordance with the agreement it was found that the subjects of Great Britain had occupied so much more of Guatemala than was supposed that the commissioner on the part of Her Majesty's Government refused to proceed, and this large area of land has since remained practically in the possession of Great Britain.

The United States have never given their assent to this conversion of the British "settlement" in Central America under Spanish-American sovereignty into a British "possession" with British sovereignty. There is a vast difference between a settlement subject to the sovereignty of the Central American republic and a colony controlled by Great Britain.

Under the treaty of 1850, while it is binding, the United States have not the right to exercise dominion over or to colonize one foot of territory in Central America. Great Britain is under the same rigid restriction. And if Great Britain has violated and continues to violate that provision, the treaty is, of course, voidable at the pleasure of the United States.

Again, it is well known that the parties to the Clayton-Bulwer treaty anticipated that a canal by the Nicaragua route was to be at once commenced. Under the assumption of a protectorate of Mosquito, British authority was at that time in actual and visible occupation of one end of the Nicaragua route, whether with or without title is not now material, and it was intended by this treaty to dispossess Great Britain of this occupation. This object was accomplished in 1859 and 1860 by treaties between Great Britain, Guatemala, Honduras, and Nicaragua, referred to in Lord Granville's dispatch of January 14, 1882. It was to this adjustment, which was one of the prime objects of the treaty, and not to the colonization of British Honduras, that Mr. Buchanan in his message of December 3, 1860, alludes as "an amicable and honorable adjustment of dangerous questions arising from the Clayton-Bulwer treaty."

When the Clayton-Bulwer treaty was concluded it was contemplated that the Nicaragua Canal, to which the treaty principally had relation, would be at once commenced and finished with all possible speed by American and British capital under the impulse of the joint protectorate. This appears not only from the context of the treaty, but also from the history of the negotiations which led to the treaty and the relations which then existed between this government and the Central American States.

On December 12, 1846, New Grenada, by a treaty of commerce, in consideration of certain guarantees, made the United States valuable grants relating to the Panama route, to which your attention will be directed when we consider the rights of this republic in relation to the Panama route.

The discovery of gold in California soon made it important to find some rapid way of reaching it. Notwithstanding the progress of the Panama Railroad scheme, public feeling was running strongly in favor of a ship-canal large enough to accommodate ocean steam-ships. Influenced by this strong feeling the minister of the United States in Nicaragua, without instructions, negotiated a treaty with that republic, which conferred upon certain citizens of the United States the valuable right to construct a ship-canal from San Juan on the Atlantic coast to the Pacific. Nicaragua claimed sovereignty over the whole of the line of the proposed canal, while Great Britain, as I have shown, claimed sovereignty over a portion of it occupied by the Mosquito Indians.

At the time of the concession by Nicaragua it would have been impossible to procure in the United States the capital necessary for the construction of a ship-canal from the Atlantic to the Pacific.

Hence it was that, when Mr. Clayton learned of the concession, he at once informed Mr. Crampton, the British minister, saying that the United States did not propose to avail themselves exclusively of these privileges, but wished a canal constructed, and that the claim of Great Britain on behalf of the Mosquito Indians, which the United States could not admit, stood in the way. The Government of the United States Mr. Clayton said, was persuaded that—

> These considerations, if fairly laid before Her Majesty's Government, would induce Her Majesty's Government to make such an arrangement with regard to the Mosquito Indians as would prevent its being an obstacle to the design in question.

President Taylor was present at the interview, and "cordially concurred." Mr. Crampton reported the conversation to Lord Palmerston the 1st October, and on the 15th of the same month transmitted to him a copy of the concession by Nicaragua to the American company. The 22d November Mr. Abbott Lawrence officially informed Lord Palmerston

that an American company, aided by the subscription of a large amount of British capital, had begun to construct the Panama Railroad, and had completed the contracts for iron for it. He transmitted to Lord Palmerston a copy of the guaranty in the treaty of 1846 with New Grenada, and invited Great Britain to join in the guaranty. In the same note he acquainted Her Majesty's Government with the concession from Nicaragua to the American canal company, and said that the conflicting claims as to Mosquito threw an obstacle in the way of the work, and invited a conversation on the subject. It seems that several conversations were had, since on the 14th of the following December Mr. Lawrence addressed a formal note to Lord Palmerston, in which, after referring to them and again setting forth the concessions for the Panama Railroad and the Nicaragua Canal, and stating that the United States had "disclaimed all intention to settle, annex, colonize, or fortify the territory of Central America, which declaration had been met by a similar disclaimer on the part of Great Britain," and also that Her Majesty's Government "had intimated their willingness to join with the United States in their guaranty of neutrality," he asked in substance, 1st. Whether Great Britain would enter into a treaty with Nicaragua similar to that negotiated by the United States? 2d. Whether Great Britain would enter into treaty with New Grenada guaranteeing the neutrality of the railway then under construction? 3d. Whether the obstruction of the Mosquito protectorate would be removed? This note was never answered formally in London, but negotiations were transferred to Washington.

Meantime, and in the autumn of 1849, Sir Henry Bulwer had succeeded Mr. Crampton in Washington, and, soon after his arrival, commenced negotiations with Mr. Clayton for a treaty for the protection of a canal.

On the 6th January, 1850, Sir Henry Bulwer wrote to Lord Palmerston, saying:

> Your lordship is aware that the main interest of the United States in this matter has arisen from its newly acquired possession in the Pacific, and the project of an American company to form a water communication between the two oceans, passing through the lake of Nicaragua and the river San Juan; this company having obtained from the state of Nicaragua the use of its lakes and territory for this purpose, and the use also of the river San Juan, to which Nicaragua lays claim. * * * But it so happens that while it is very difficult, not to say impossible, for Her Majesty's Government to listen to those claims of Nicaragua, our decision with respect to which has been already openly taken, there is no difficulty, I believe, whatsoever in Her Majesty's Government assisting the United States in its general views with respect to that water communication across Central America, which Great Britain must be almost as desirous as the United States to see established. * * * I am disposed to think that the best way of doing this is by a convention between Great Britain and the United States.

Negotiations conducted on this basis progressed so rapidly that on the 3d February, 1850, Sir Henry Bulwer was able to transmit for Lord Palmerston's criticism the full project of a treaty. Extracts from the covering dispatch fully explain what the treaty was intended to accomplish:

> The State of Nicaragua made to an American company, formed for the construction of such a canal, the grant, accompanied by various favors and privileges, of all such portion of the territory claimed by it as the said company require. * * * It was, however, impossible for the contemplated scheme to be executed under any grant from the state of Nicaragua as long as the mouth of the San Juan River was in the hands of another people protected by Great Britain. * * * Both the American company, to which I have alluded, and the American Government have latterly manifested an earnest desire to have it clearly understood that they will modify all that portion of their original engagement with Nicaragua which secures any advantages to one state which another may not equally enjoy; and if such be the spirit which is to preside

over the vast project under consideration, Great Britain has not only no interest in preventing its success, but every interest in forwarding its completion and providing for its security. * * * It is with such views that the inclosed convention has been drawn up, its object being to exclude all question of the disputes between Nicaragua and the Mosquitos, but to settle in fact all that it was essential to settle with regard to these disputes as far as the ship communication between the Atlantic and Pacific and the navigation of the river San Juan were concerned.

The project, which was inclosed in this dispatch, was in the substance of its provisions and in most of its language identical with the treaty subsequently concluded, with one marked exception. In the project, Article VII stopped with the general provision to give encouragement and support to the first parties offering to commence the work with the necessary capital. In the subsequent negotiations the following words were added to that article, and form part of Article VII of the executed treaty:

And if any persons or company should already have, with any state through which the proposed ship-canal may pass, a contract for the construction of such a canal as that specified in this convention, to the stipulations of which contract neither of the contracting parties in this convention have any just cause to object, and the said persons or company shall, moreover, have made preparations and expended time, money, and trouble on the faith of such contract, it is hereby agreed that such persons or company shall have a priority of claim over every other person, persons, or company to the protection of the Governments of the United States and Great Britain, and be allowed a year from the date of the exchange of the ratifications of this convention for concluding their arrangements and presenting evidence of sufficient capital subscribed to accomplish the contemplated undertaking; it being understood that if at the expiration of the aforesaid period such persons or company be not able to commence and carry out the proposed enterprise, then the Governments of the United States and Great Britain shall be free to afford their protection to any other persons or company that shall be prepared to commence and proceed with the construction of the canal in question.

The Clayton-Bulwer treaty was concluded on the 19th of the following April, and I think it will not be denied that the object which President Taylor, Mr. Clayton, Sir Henry Bulwer, and Lord Palmerston had in view in making it was primarily and mainly this: To insure at the earliest possible moment the completion of the particular ship-canal for which a concession had been made by Nicaragua to citizens of the United States on the 29th of August, 1849. All the interviews of which accounts remain and all the correspondence relate to this particular canal and to no other. As if to make assurance doubly sure, the project of a treaty which Sir Henry Bulwer sent to Lord Palmerston the 3d of February being found doubtful or insufficient in this respect, was so amended between that time and the 19th April as to make it practically certain that that grant would be accepted by both governments as the one covered by the treaty.

It was to this particular canal that were to be applied all the provisions of the first article in the treaty relating to the fortification of the canal, the control over it, and exclusive advantage in it; of the second article, relating to blockade, detention, or capture; of the third and fourth articles, relating to protection during construction and to free ports; of the fifth article, in regard to a guaranty of neutrality; of the sixth article, with regard to treaties with other states and the use of the good offices of the high contracting parties; and of the seventh article as already noticed; but if under the provisions of the seventh article the claims of the holders of this particular concession should be set aside, then each government reserved to itself the right to determine whether its interests required it to afford protection to the holders of any other concession.

The two governments did, however, subsequently come to a harmo-

nious agreement with regard to the grant by Nicaragua, the one contemplated by the treaty.

The company was organized, and Colonel Childs, who had been chief engineer of the canals of the State of New York, was sent to Nicaragua to make a survey. He arrived there in August, 1850, and in 1852 his report was received, printed, and laid before the Secretary of War by direction of the President, who detailed Colonel Abert and Lieutenant-Colonel Turnbull, of the United States Army, to examine it and give their opinions upon it. They approved the report on the 20th March, 1852.

On the 16th June, in the same year, Mr. Lawrence informed Lord Malmesbury of these facts, and requested Her Majesty's Government to appoint engineers of skill and experience to examine it on the part of that government.

Mr. Lawrence was on the 30th July informed that an officer of the royal engineers and an eminent civil engineer had been appointed for that purpose, and on the 13th August their report was transmitted to Mr. Lawrence by Lord Malmesbury. The report was favorable, and a combination of British capitalists was made in contemplation of united action with American shareholders in the construction of the canal. For reasons which need not now be repeated, but principally because of the discussion which immediately began as to the clauses of the treaty relating to settlements in British Honduras, the project failed, and no canal was ever constructed under that grant.

A line of steamers was put on and run for many years, carrying passengers between New York and San Francisco. The expedition of Walker into Nicaragua terminated this line. The grant was revoked, the steamers were seized; the stockholders received no benefit from their property, and although the company nominally exists, it has been practically superseded by subsequent grants from Nicaragua to other companies.

It was also agreed in the treaty that the parties should invite other states to enter into similar stipulation, to the end that they might share in the "honor and advantage of having contributed to a work of such general interest and importance as the canal herein contemplated," to wit, that by the Nicaragua route.

It is to be observed that if other nations were to become parties to the enterprise it was only on the joint invitation of both the United States and Great Britain; but the President regards the provision as lapsed by the failure to construct the canal to which it referred, and by the fact before stated that experience has shown that no joint protectorate for any canal across the isthmus is requisite. The canal, however, now in question is on the Panama and not on the Nicaragua route.

The remaining subject of the treaty is contained in the eighth article, which relates to a canal or railway across the isthmus other than by the Nicaragua route, as by way of Tehuantepec or Panama, and it is this provision of the treaty which has occasioned this correspondence. The article provides as follows:

> The Governments of the United States and Great Britain having not only desired in entering into this convention to accomplish a *particular object* [to wit, the Nicaragua Canal, which, at the date of the treaty, it was thought was about to be constructed], but also to establish a general principle, they hereby agree to extend their protection, by *treaty stipulations*, to any other communications, whether by canal or railway, across the isthmus which connects North and South America, and especially to the inter-oceanic communications, should the same prove to be practicable, whether by canal or railway, which are now proposed to be established by the way of Tehuantepec or Panama.

It is to be here observed that the Government of the United States has a treaty with New Grenada, now a part of the United States of Colombia, entered into in 1846, by which free transit is guarantied to the citizens of the United States across the Isthmus of Panama upon any mode of communication that may be constructed, subject to no duties or burdens but such as may be imposed upon citizens of New Grenada; and by which, in order to secure the tranquil and constant enjoyment of these advantages, the United States guaranteed, positively and efficaciously, the *perfect neutrality of the isthmus*, with the view that free transit from sea to sea might not be interrupted or embarrassed, and also guaranteed the rights of sovereignty and property which New Grenada (now the United States of Colombia) had and possesses over said territory.

By this treaty with New Grenada the United States claim to occupy a peculiar relation to the means of transit by railroad or canal across the isthmus, within the territories of the United States of Colombia; a relation which cannot justly be superseded by the intervention of other states without the consent of the United States, duly and properly obtained. A protectorate of this kind is, like government, necessarily exclusive in its character, and implies a right and duty to make it effective. There may be a joint protectorate engaged in by mutual convention of different States, but the protectorate itself must be a unit. The treaty with New Grenada of 1846 still remains in full force. If Great Britain should desire to be united with the Government of the United States in that guaranty, of course it would require the consent of the United States of Colombia and of this government, and a convention to that end, the terms of which should be made agreeable to the parties.

Article VIII of the Clayton-Bulwer treaty relates only to those projects *now* [1850] proposed to be established; and expressly contemplates some further "treaty stipulation" on the part of Great Britain with the United States of America and New Grenada, now the United States of Colombia, before Great Britain can join the United States in the protectorate of the canal or railway by the Panama route. No such treaty stipulation has been made or has been proposed by Great Britain. Since the ratification of the Clayton-Bulwer treaty, for thirty years the United States, under the treaty of 1846 with New Grenada, has extended protection to the transit from sea to sea by the Panama Railway.

Should Her Majesty's Government, after obtaining the consent thereto of the United States of Colombia, claim, under the Clayton-Bulwer treaty, the right to join the United States in the protection of the existing Panama Railway, or any future Panama canal, the United States would submit that experience has shown that no such joint protectorate is requisite; that the Clayton-Bulwer treaty is subject to the provisions of the treaty of 1846 with New Grenada, while it exists, which treaty obliges the United States to afford, and secures to it the sole protectorate of any transit by the Panama route; and if Great Britain still claimed the right to join in the protectorate the United States would then determine whether the "treaty stipulations" proposed by Great Britain regulating that joint protectorate were just; and, if so, whether the length of time during which Great Britain has concurred in the protection of the Panama route under the treaty with New Grenada has or has not relieved the United States from any obligation to accept a proposal from the government to join in the guarantee.

I may then state the President's views on the whole subject, which I do with an assurance that they will meet with a candid consideration

from Lord Granville, and with the hope that they may be substantially concurred in by Her Majesty's Government.

The Clayton-Bulwer treaty was concluded to secure a thing which did not exist, and which now never can exist. It was to secure the construction of a canal under the grant of 1849 from Nicaragua that the United States consented to waive the exclusive and valuable rights which had been given to them; that they consented to agree with Great Britain that they would not occupy, fortify, colonize, or assume dominion over any part of Central America; and that they consented to admit Her Majesty's Government at some future day to a share in the protection which they have exercised over the Isthmus of Panama.

The Government and people of the United States, though rich in land and industry, were poor in money and floating capital in 1850. The scheme for a canal, even without the complications of the Mosquito protectorate, was too vast for the means of the Americans of that day, who numbered then considerbly less than one-half of their numbers to-day. They went to England, which had what they had not, surrendered their exclusive privileges, offered an equal share of all they had in those regions in order, as expressed in the seventh article of the treaty "that no time should be unnecessarilly lost in commencing and constructing the said canal." Through no fault of theirs time was unnecessarily lost, the work was never begun, and the concession failed.

The President does not think that the United States are called upon by any principle of equity to revive those provisions of the Clayton-Bulwer treaty which were specially applicable to the concession of August, 1849, and apply them to any other concession which has been since or may hereafter be made. The conditions of 1882 are not those of 1852. The people of the United States have now abundance of surplus capital for such enterprises, and have no need to call upon foreign capitalists. The legislative branch of the Government of the United States may also desire to be free to place the credit of the United States at the service of one or more of these enterprises. The President does not feel himself warranted in making any engagement or any admission respecting the extinct provisions of the Clayton-Bulwer treaty which would prevent or interfere with such a purpose. On the contrary, frankness requires him to say that as the persons who held the grant which the United States understood to be accepted by the two governments under the provisions of the treaty have not "carried out the proposed enterprise," the United States esteem themselves competent to refuse to afford their protection jointly with Great Britain to any other persons or company, and hold themselves free hereafter to protect any interoceanic communication in which they or their citizens may become interested in such way as treaties with the local sovereign powers may warrant and their interests may require.

There are some provisions of the treaty which the President thought might be advantageously retained. With this purpose the present correspondence was opened by the note to you of the 19th November last, in which these points were indicated. The President is still ready on the part of the United States to agree that the reciprocal engagements respecting the acquisition of territory in Central America, and respecting the establishment of a free port at each end of whatever canal may be constructed, shall continue in force, and to define by agreement the distance from either end of the canal where captures may be made by a belligerent in time of war, and with this definition thus made to keep alive the second article of the treaty. He hopes that Lord Granville on

future consideration may not be averse to revising his opinion that such agreements would not be beneficial.

To the suggestion made by Lord Granville, at the close of this note of January 7, that the United States should take the initiative in an invitation to other powers to participate in an agreement based upon the convention of 1850, the President is constrained, by the considerations already presented, to say that the United States cannot take part in extending such an invitation, and to state with entire frankness, that the United States would look with disfavor upon an attempt at a concert of political action by other powers in that direction.

It is not necessary to observe that there is no provision of the Clayton-Bulwer treaty which authorizes Great Britain to invite, or obliges the United States to accept, the aid of other nations to protect or to guarantee the neutrality of the Panama route.

Fortunately the want of harmony in the views of the two governments can have at present no injurious influence. No canal yet exists across the isthmus, and in the natural course of events some time must elapse before one can be constructed; meanwhile the points of divergence between Her Majesty's Government and that of the United States may disappear. The President hopes that long before the subject becomes one of practical importance Her Majesty's Government may be brought to see that the interests of Great Britain and of the United States in this matter are identical, and are best promoted by the peaceful policy which he has marked out for this country.

In the mean time the diversity of opinion which now exists will not in any wise impair the good understanding happily existing between the people and Governments of the United States and Great Britain.

You will read this dispatch to Lord Granville, and if he desires to have a copy of it you may leave one with him.

I am, sir, your obedient servant,

FREDK. T. FRELINGHUYSEN.

No. 127.

Mr. Lowell to Mr. Frelinghuysen.

No. 376.] LEGATION OF THE UNITED STATES,
London, June 1, 1882. (Received June 13.)

SIR: I have the honor to acknowledge the reception of your instruction No. 368 of the 8th of May last, stating the position of the Government of the United States in relation to questions growing out of the (so called) Clayton-Bulwer treaty. It arrived on the 27th ultimo, when the members of the government were leaving town for the Whitsuntide holidays. I have had no opportunity of seeing Lord Granville until yesterday, when I had an interview with him by appointment at the foreign office. I read the dispatch to him and left a copy of it with him at his request, agreeably to your directions. I have already informed you of this by cable.

I have, &c.,

J. R. LOWELL.

No. 128.

Mr. Lowell to Mr. Frelinghuysen.

No. 393.] LEGATION OF THE UNITED STATES,
London, July 10, 1882. (Received July 24.)

SIR: Referring to my telegram of the 20th of May last, in which I stated that I had read your No. 366 to Lord Granville and left a copy with him on the 18th of that month, I have the honor to acquaint you that I have just received a letter from his lordship in reply to that dispatch, a copy of which I herewith inclose.

It will be observed that of the six alleged American citizens to which you invited my attention in that dispatch on the 25th of April last, Brophy has accepted his release on the condition proposed by the lord lieutenant, and McInerny has also been released from custody.

The remaining four suspects still remain in prison, viz, O'Mahoney, McSweeney, Slattery, and Gannon.

The certificate of naturalization which O'Mahoney produced to me expressly stated that it was granted on the ground of his service in the Navy, which was so clearly irregular that I do not consider him entitled to the privileges of American citizenship.

In the lists of persons detained in prison June 5, 1882, under the statute 44 Victoria, c. 4, a copy of which accompanied Lord Granville's note, and which I also inclose herewith, I do not find the names of any persons who have been arrested under that act and who have applied to me for protection excepting those mentioned in Lord Granville's communication.

It will be observed that the British Government do not entertain the intention of bringing the four persons still remaining in prison to trial.

I have, &c.,

J. R. LOWELL.

[Inclosure in No. 393.]

Lord Granville to Mr. Lowell.

FOREIGN OFFICE, *July* 8, 1882.

SIR: Her Majesty's Government have had under consideration Mr. Frelinghuysen's dispatch of the 25th of April, a copy of which you were good enough to communicate to me on the 18th of May, in which the Secretary of State has invited attention to the cases of Messrs. O'Mahoney, McSweeney, McInerny, Slattery, Brophy, and Gannon, who are stated to be American citizens and have been detained in prison under the protection of person and property (Ireland) act, 1881. I have now the honor to state to you that I have been informed that in the case of five of these prisoners, namely, O'Mahoney, McSweeney, McInerny, Slattery, and Brophy, an order was issued by the Lord Lieutenant of Ireland on the 24th of April last that they should be discharged from custody on the terms of their leaving Ireland for America.

They all at the time refused to accede to these terms and were consequently detained in custody. Brophy, however, subsequently consented to go to America, and has been since released, and McInerny has also been released from custody.

Some doubt existed at the time as to the claim set up by John Gannon as an American citizen, but on being satisfied on this point later, his excellency made the same order in his case as that made in the case of the other five prisoners, viz, that he should be discharged if he consented to leave Ireland for the United States; a permission of which the prisoner has not availed himself.

Of the persons, therefore, on whose behalf application has been made by the Government of the United States, four still remain in custody, viz, O'Mahoney, McSweeney, Slattery, and Gannon.

In response to the desire expressed by the Government of the United States to be furnished with information as to the causes of their detention, I have the honor to forward herewith duplicate copies of a paper which has been laid before Parliament,

containing a list of all persons detained in prison under statute 44 Vict., c. 4, in which are given in a separate column the grounds stated for their arrest in the warrant sunder which they are detained.

I beg leave to refer you to Nos. 4, 13, 27, and 74, in this list, under which will be found the particulars laid before Parliament as to the arrest of Messrs. O'Mahoney, McSweeney, Slattery, and Gannon.

In conclusion I have the honor to state to you that at present Her Majesty's Government do not entertain the intention of bringing these prisoners to trial.

I have, &c.,

GRANVILLE.

No. 129.

Mr. Lowell to Mr. Frelinghuysen.

[Extract.]

No. 398.] LEGATION OF THE UNITED STATES,
London, July 14, 1882. (Received July 27.)

SIR: I have the honor to inclose two copies of the prevention of crime (Ireland) act, which has just received the royal assent.

* * * * * * *

It is the revival of the alien act as part of the crimes act which alone directly concerns our relations with this government. Questions are likely to arise under it which will need to be treated with extreme delicacy and discretion. It will be rather to the personal application of the act than to its principle that objection will lie, and I should be glad to be armed beforehand with the opinion of the President as to what my general line of action should be under these new circumstances. There must be a great number of naturalized American citizens in Ireland besides those that have rendered themselves obnoxious to the local authorities, and the alien clauses of the act may very probably strengthen the temptation of private enmity to bring false accusations, as it undoubtedly increases the opportunity for them. I have every reason to believe that under the present government the act will be applied with caution and discrimination, but a change of ministry may take place at any moment. In any event, however, I think myself safe in predicting that the provisions of the act will be brought to bear only in the cases of men who have made, or may make, themselves particularly prominent by incitement to disorder or defiance of authority.

I have, &c.,

J. R. LOWELL.

No. 130.

Mr. Lowell to Mr. Frelinghuysen.

[Extract.]

No. 402.] LEGATION OF THE UNITED STATES,
London, July 19, 1882. (Received August 2.)

SIR: Referring to my dispatch No. 393, of 10th instant, and to my cable dispatch of the 11th instant, in which I stated that the only alleged American citizens now imprisoned in Ireland are O'Mahoney, Sweeney, Slattery, and Gannon, I have the honor to acquaint you that I received yesterday a letter from Mr. Barrows, the consul at Dublin,

from which it appears that Mr. William Brophy is still a prisoner in Naas jail, and that Lord Granville was mistaken in stating he had been released. I am unable to explain this discrepancy.

* * * * * * *

I have, &c.,

J. R. LOWELL.

No. 131.

Mr. Frelinghuysen to Mr. Lowell.

No. 431.] DEPARTMENT OF STATE,
Washington, August 3, 1882.

SIR: In acknowledging your No. 393 of July 10, 1882, I am gratified to learn that two of the six alleged American citizens, to whom I invited your attention in my No. 366 of April 25 last, have been released. I regret, however, to learn that the other four are still detained, and that the British Government does not entertain the intention of bringing them to trial. I have again to instruct you to say to Lord Granville that as these prisoners have been so long detained the President hopes that the British Government may now feel justified in instructing the Lord Lieutenant of Ireland to exercise the powers intrusted to him by the first section of the act of March 2, 1881, to order an early trial in these cases.

I am, &c.,

FRED'K T. FRELINGHUYSEN.

No. 132.

Mr. Lowell to Mr. Frelinghuysen.

No. 417.] LEGATION OF THE UNITED STATES,
London, August 8, 1882. (Received, August 19.)

SIR: Referring to my dispatch No. 402, of the 19th of July last, I have the honor to forward herewith the copy of a letter which I received to-day from Lord Granville, by which it appears that the lord lieutenant of Ireland, on the 14th of July, caused it to be intimated to Messrs. O'Mahoney, McSweeney, and Slattery that he was still willing to allow them to be released on the terms of their leaving the country, but they have all refused to accept this offer, and his excellency could not consistently with his duty allow them to be at large in Ireland, in the present state of the country.

Lord Granville further states that an unconditional release had been granted to John Gannon, and that William Brophy, who had consented to go to America, and at one time was making arrangements for his departure, had not taken any further steps in that direction. The reason he would give for this is probably the want of means as stated in my dispatch of the 19th July.

Lord Granville calls my attention to the cause of Brophy's imprisonment, that he is declared to be reasonably suspected of being guilty, as principal, of the crime of murder.

I have the honor, &c.,

J. R. LOWELL.

[Inclosure in No. 417.]

Lord Granville to Mr. Lowell.

FOREIGN OFFICE, *August* 5, 1882.

SIR: In the letter which I had the honor to address to you on the 8th ultimo, relative to the case of six American citizens who have been detained in prison under the protection of person and property (Ireland) act, 1881, it was stated that as Messrs. O'Mahoney, McSweeney, Slattery, and Gannon had not accepted the terms on which their discharge had been offered to them, they were still detained in custody; and that Messrs. McInerny and Brophy had been released.

I now beg leave to acquaint you that I am informed that on the 14th ultimo his exeellency the viceroy of Ireland caused it to be intimated to the three first named of these prisoners that he was still willing to allow them to be released on the terms of their leaving the country, but that they have refused to accept this offer, and his excellency cannot consistently with his duty allow them to be at large in Ireland in present state of the country.

Upon a full consideration of the case of John Gannon, his excellency has ordered his unconditional release.

With regard to William Brophy, who, as was stated in my letter of the 8th of July, had consented to go to America, and at one time was making arrangements for his departure, I am informed that he has not taken any further steps in that direction. For the particulars of the grounds stated in the warrant for this man's arrest, I beg leave to refer you to No. 204 in the list laid before Parliament, of which a copy accompanied my letter of the 8th ultimo. You will observe that he is there declared to be reasonably suspected of being guilty as principal of the crime of murder.

I have, &c.,

GRANVILLE.

No. 133.

Mr. Davis to Mr. Lowell.

[Telegram.]

WASHINGTON, *August* 11, 1882.

Stephen J. Meany, of New York, a citizen of the United States, is reported as having been arrested at Ennis. Inquire into the case and telegraph the facts.

DAVIS.

No. 134.

Mr. Lowell to Mr. Frelinghuysen.

No. 423.] LEGATION OF THE UNITED STATES,
London, August 14, 1882. (Received August 28.)

SIR: Referring to my number 417, of the 8th instant, I have the honor to acquaint you that I have to-day received from Lord Granville a letter, dated on the 11th instant, in which he informs me that a communication had been sent by the Irish government, reporting that Patrick Slattery, one of the American suspects detained under the protection of person and property (Ireland) act 1881, was released on the 1st instant.

I have, &c.,

J. R. LOWELL.

No. 135.

Mr. Davis to Mr. Lowell.

No. 439.] DEPARTMENT OF STATE,
Washington, August 16, 1882.

SIR: Referring to my telegram to you of the 11th of this month, in relation to the arrest in Ireland of Mr. Stephen J. Meany, and to your reply of the 13th instant, announcing that he had been liberated, I inclose herewith for your information a copy of a communication to this Department from Mr. George H. Sandison, the managing editor of the New York Star, from which it appears that Mr. Meany is an American citizen of good character, and at the time of his arrest was the editorial correspondent in Ireland of the above-named journal. Although it is probable that your proceedings in relation to the arrest of Mr. Meany will have been brought to a satisfactory conclusion before this instruction reaches you, I deem it proper to transmit to you Mr. Sandison's letter for your information should any further steps be necessary.

That part of Mr. Sandison's communication which relates to the opening of a letter addressed to him has been referred to the Postmaster-General for his attention, as it is a matter properly within the jurisdiction of his department.

I am, &c.,

JOHN DAVIS,
Acting Secretary.

[Inclosure in No. 439.]

Mr. Sandison to Mr. Davis.

OFFICE OF THE NEW YORK STAR,
New York, August 12, 1882.

DEAR SIR: Permit me to thank, through you, the Department you represent, for the prompt service rendered in the case of our editorial correspondent in Ireland, Stephen Joseph Meany, who was arrested at Ennis. We received a cable message last evening announcing that he had been discharged from custody, doubtless in consequence of the representations made in his behalf by Minister Lowell, at your request.

Mr. Meany is a naturalized citizen, and has for many years been a resident and a voter in this State. On two previous journeys to Ireland, as our representative, he experienced no personal molestation, although his correspondence was examined repeatedly and only forwarded after considerable delay by the English postal authorities. I inclose you the cablegrams received by us on the subject, which contain all the information at hand, and which I would respectfully request you to investigate.

You will observe that, in addition to his arrest, his trunks were searched and he was only permitted to go on giving bonds for good "behavior." As he has at all times, both at home and abroad, demeaned himself as a quiet and respectable American citizen, it is difficult to understand the nature of the information which led to his arrest as a "dangerous character." He has never, to my knowledge, or that of his most intimate friends, been guilty of any conduct which could be construed as being incentive to sedition against Her Majesty's Government, or to a breach of the peace, either at home or abroad. I have written to Mr. Meany to furnish Minister Lowell with evidences of his American citizenship, his passport, and all the other information in his possession bearing on the question of his status abroad at the present time.

At 2.30 p. m. to-day I received the first instalment of Mr. Meany's editorial correspondence, the envelope containing which bears evidence of having been opened in transit and resealed by the United States postal authorities. The envelope is inclosed herewith, together with other matters bearing on the subject of the recent arrest.

Very truly, yours,

G. H. SANDISON,
Editor Star.

DUBLIN, *August* 11.

Simultaneously with the tidings of the liberation of Henry George comes the announcement that Stephen J. Meany, the New York Star's special correspondent in Ireland, has been arrested at Ennis, whither he went to visit his relatives, and whence he was about to make a tour of the most distressed portions of the West of Ireland, where evictions are being carried on at a wholesale rate. These arbitrary seizures are the first fruit of the new repression act, and their manifest intent is to intimidate American citizens from visiting Ireland. Mr. Meany was arrested on Thursday while in bed in Brennan's Hotel, in Ennis, County Clare, under a warrant issued by Earl Spencer, charging Mr. Meany with being a dangerous character. Mr. Meany was subsequently released on giving bail for his good behavior for six months. Mr. Meany's trunk was searched for treasonable documents, but none were found.

MR. MEANY'S ARREST.

DUBLIN, *August* 12.

It now appears that Stephen J. Meany was arrested on Thursday night at Brennan's Hotel, Ennis, under a warrant of the lord lieutenant, charging him with being a dangerous character. He was detained all night at the police barracks and discharged in the morning on giving bail for good behavior for six months. His trunks were searched but nothing of a treasonable character was found in them.

No. 136.

Mr. Lowell to Mr. Frelinghuysen.

[Telegram.]

LONDON, *August* 17, 1882.

McSweeney has been released without conditions. Slatterly was discharged on the 1st of August. The only two remaining cases are those of O'Mahoney and Brophy, and they are being considered by the proper officials.

LOWELL.

No. 137.

Mr. Davis to Mr. Lowell.

No. 445.] DEPARTMENT OF STATE,
Washington, August 18, 1882.

SIR: I inclose herewith, for your information, a copy of a communication to this Department from Mr. John Mullan, a citizen of California, in relation to the alleged arrest in Ireland, for the second time, of Mr. Henry George, an American citizen. The Department has no further information as to the facts than is contained in Mr. Mullan's letter.

I will thank you to inquire carefully and fully into the matter, with a view to taking such action in relation to the case as the facts may warwant.

I am, &c.,

JOHN DAVIS,
Acting Secretary.

[Inclosure in No. 445.]

Mr. Mullan to Mr. Frelinghuysen.

WASHINGTON, D. C., *August* 15, 1882.

SIR: I have the honor very respectfully to invite your special and immediate attention to the telegraphic intelligence from London of yesterday by which the public

are informed of the second arrest in Ireland of Mr. Henry George, a distinguished citizen of the United States, and for many years past a resident of the city of San Francisco, and State of California.

Mr. George is my personal friend, whom I have known favorably and intimately for many years. He is a journalist and author of very high order; a gentleman of rare intellectual acquirements, and of irreproachable private character; a native-born citizen of the United States; and his second arrest in Ireland is a matter which, in my judgment, should be promptly and fully inquired into by the proper authorities of the United States.

Congress being not now in session, and its members constituting the California delegation having repaired to their homes, leaves the case of Mr. George without remedy through his immediate representatives in Congress; and for this reason, among others, I therefore, as his personal friend (a native-born citizen of the United States, and resident of California, temporarily sojourning in Washington City), do request, that you may be pleased to immediately instruct the United States minister, resident in London, to officially and promptly and fully inquire into all the circumstances and causes of these two arrests of Mr. Henry George in Ireland; the character and nature of the charges preferred against him, if any; and promptly and fully to report to your Department in regard thereto.

This constant re-occurrence of the arrest, without adequate cause, of peaceable and law-abiding citizens of the United States while traveling through the isles over which the flag of England floats, is a matter of grave public concern, and one which demands the first attention of the proper authorities of the United States; and the friends of Mr. George confidently believe, if his arrest and confinment in an English prison have taken place, in these cases, either without sufficient or just authority of law, or without good causes first clearly established, that the United States will not permit so gross a wrong upon American citizens abroad to pass either unnoticed or undredressed.

I am, &c.,

JOHN MULLAN,
Of California.

No. 138.

Mr. Lowell to Mr. Frelinghuysen.

[Telegram.]

LONDON, *August* 26, 1882.

O'Mahoney was discharged 4th of August. Case of Brophy is being considered. Have heard nothing from Secretary of Ireland concerning cases of Meany or George.

LOWELL.

No. 139.

Mr. Lowell to Mr. Frelinghuysen.

[Extract.]

No. 434.] LEGATION OF THE UNITED STATES,
London, August 30, 1882. (Received September 14.)

SIR: Referring to your dispatches Nos. 439 and 445, and to several telegrams from the Department, I have the honor to report my action in the cases of Messrs. Meany and George, arrested in Ireland, under the prevention of crimes act.

I have already in my dispatch No. 433, of the 24th instant, informed you of what I had done in respect to the first named of these cases, previous to that date.

On the 21st of August instant, I received from Mr. Davis, the acting secretary, the following message:

Is there any information in regard to the case of George, and is he still under arrest?

As I had not heard from Mr. George personally, or from the consul of the foreign office, I replied, on the 22d, as follows:

Only information I have as regards George is contained in newspaper reports. I believe he is at liberty.

On the 23d of August, I received the following additional telegram from Mr. Davis:

Use all diligence to find out where George is, and telegraph facts of case at once.

On the 24th of August, I addressed the following telegram to Mr. Barrows, the consul at Dublin:

Will you kindly inquire at the proper office as to the present whereabouts of Henry George, arrested at Loughrea, and afterwards at Athenry, and the reason of his arrest?

On the 26th of August, Mr. Barrows wrote me:

The under secretary does not know where Mr. George is at present, but promised to send me the particulars of his arrest. I shall forward same soon as received. I was informed unofficially that Mr. George was arrested under the crimes act, for being seen in the company of suspicious persons, but was not detained more than one or two hours.

Mr. Barrows has not yet sent me the account from the under secretary, which was promised.

On the 14th of August, in order to prevent delay, I ventured to transgress official rules, and addressed Mr. Trevelyan, the Irish secretary, directly, without asking the intervention of the foreign office, in relation to the arrest of Mr. Meany. Mr. Trevelyan was absent upon a tour in Ireland, and did not reply to my letter. I addressed him again on the 24th instant, in respect to both Mr. Meany and Mr. George. Not having heard from him, I telegraphed to you on the 26th instant, as follows:

No answer yet from Irish secretary in regard to Meany or George.

On the 27th instant, however, I received a *confidential* reply from Mr. Trevelyan. * * *

I have been waiting for fuller information before addressing Lord Granville upon the subject of these arrests, but as I did not think proper to delay any longer communicating what I presumed would be the views of the President on this subject, I have written him a letter a copy of which I inclose, and which will be sent to him forthwith.

I have, &c.,

J. R. LOWELL.

[Inclosure in No. 434.]

Mr. Lowell to Lord Granville.

LEGATION OF THE UNITED STATES,
London, August 29, 1882.

MY LORD: I have delayed addressing your lordship on the subject of the recent arrests of Mr. Henry George, a well-known writer on political economy, at Athenry, and Mr. Stephen J. Meany, editor of a respectable New York newspaper, at Ennis, two American citizens traveling in Ireland on perfectly legitimate business, so far as I can learn, because I have been in the daily hope of obtaining fuller and more authentic particulars on which to base a remonstrance.

I beg to ask your lordship's attention to the peculiar features of hardship which characterize these two cases. Mr. George was twice arrested, and though shortly discharged, from lack, apparently, of any ground of reasonable suspicion, must naturally resent this repeated violation of his rights as the citizen of a friendly nation, and this public indignity which he was carelessly made to suffer.

Mr. Meany, who was arrested at midnight and taken from his bed, was also released

after a short imprisonment, but is still subjected to a qualified imprisonment, by having been put under bonds and pointed out to the special surveillance of the police.

Your lordship will observe that these cases seem to differ essentially from former arrests of American citizens, concerning which so much correspondence has already passed between the Government of the United States and that of Her Majesty, and are even more likely than those to enlist the sympathy of the American people, peculiarly sensitive as they are in regard to such infringements of personal liberty, especially in the case of adopted citizens.

As I am well aware that no one would more sincerely deplore than your lordship any occurrence which would have the untoward effect of impairing, in any way, the friendly relations now so happily existing between our respective countries, and as I am persuaded that the arrests, of which I have to complain, are due to the indiscreet zeal of subordinate officials, I venture to express the hope that Her Majesty's Government will take steps to prevent the future occurrence of such unfortunate incidents, which they would be the first to regret.

I have, &c.,

J. R. LOWELL.

No. 140.

Mr. Hoppin to Mr. Frelinghuysen.

LEGATION OF THE UNITED STATES,

No. 237.] *London, September* 2, 1882. (Received September 14.)

SIR: I have the honor to inclose herewith an extract from the Times newspaper of yesterday, in which it is stated that Mr. Meany informed the court at Ennis, the day before, that he was acting, in the proceedings he was taking, under instructions from this legation and on the advice of the American Government. This was repeated in other newspapers.

As the only communication we have had with Mr. Meany was to inform him and his friend Mr. Collier that Mr. Lowell was investigating his case under instructions from the Department of State, I thought it proper to correct at once this statement which he is reported to have made, and I accordingly addressed a note to Lord Granville on the subject which was delivered at the foreign office this morning and a copy of which I forward herewith.

I have the honor, &c.,

W. J. HOPPIN.

[Inclosure 1 in No. 237. From the Times, Friday September 1, 1882.]

The press association Ennis correspondent says that Mr. Stephen J. Meany, correspondent of the New York Star, who was arrested on the 10th of August under the crime prevention act, and bound over in his own recognizances, attended yesterday at the police barracks in accordance with instructions from the American legation in London to surrender to his bail. The subinspector, however, declined to take any action and referred him to Mr. Purcell, stipendiary magistrate. Mr. Meany, acting on advice from the American Government, is determined to test the legality of his arrest, and has adopted this mode of bringing the question to a decisive issue.

[Inclosure 2 in No. 237.]

Mr. Hoppin to Lord Granville.

LEGATION OF THE UNITED STATES,
London, September 1, 1882.

[Immediate.]

MY LORD: I take the earliest opportunity to correct a statement which appears in the Times and other newspapers this morning, that Mr. Stephen J. Meany, who was

arrested on the 10th of August at Ennis, under the prevention of crime (Ireland) act, has been instructed by this legation to surrender to his bail. No instructions of any sort have been given to him by this legation.

It is further stated that Mr. Meany, acting on advice from the American Government, is determined to test the legality of his arrest, and has adopted this mode of bringing the question to a decisive issue. I cannot believe that any such advice has been offered by my government to Mr. Meany. It certainly has not been given to him through this legation.

I have the honor, &c.,

W. J. HOPPIN.

No. 141.

Mr. Frelinghuysen to Mr. Hoppin.

No. 461.] DEPARTMENT OF STATE,
Washington, September 20, 1882.

SIR: Acknowledging the receipt of your dispatch No. 237 of the 2d instant, I have to inform you in reply that the Department approves your action in writing to Lord Granville to contradict the statement said to have been made by Mr. Meany, according to a report in the Times, that in surrendering himself to his bail he was acting under instructions from this government. I need hardly add that you are correct in your statement that no advice has been given Mr. Meany by this Department as to the action he is alleged to have taken in relation to his bail bond.

I am, &c.,

FRED'K T. FRELINGHUYSEN.

No. 142.

Mr. Frelinghuysen to Mr. Lowell.

No. 462.] DEPARTMENT OF STATE,
Washington, September 22, 1882.

SIR: I have to acknowledge the receipt of your dispatch No. 434, of the 30th ultimo, giving an account of your action in relation to the cases of Mr. Meany and Mr. George, and in which is inclosed a copy of your note to Lord Granville on the subject. Your action is approved and your course in promptly protesting against the treatment of these gentlemen is commended. The reply of Lord Granville to your note is awaited with interest.

I am, &c.,

FRED'K T. FRELINGHUYSEN.

No. 143.

Mr. Frelinghuysen to Mr. Lowell.

No. 463.] DEPARTMENT OF STATE,
Washington, September 22, 1882.

SIR: I have, in an instruction, No. 438, of the 15th August last, acknowledged the receipt of your dispatch No. 398, of the 14th July, in

relation to the "Prevention of crime (Ireland) act," recently passed by the British Parliament.

The careful attention which you have evidently given to the subject, and your just comments on the policy that could have dictated so extraordinary a measure in a country whose traditional history in regard to the freedom of the individual, the security of the domicile, and the right of every man accused of crime to an impartial trial has formed its crowning glory, relieve me from the necessity of giving you anything more than general directions as to your future conduct in connection with the cases affecting American citizens that may possibly come before you. Nevertheless, I deem it proper, in the interest of our citizens and in compliance with your own expressed desire to that effect, to put you in possession of the general views of the President on this recent act of the British Parliament—an act which he conceives may seriously affect a large number of the citizens of this republic.

It is, as you justly observe, the revival of the alien act, as a part of the crimes act, that more directly concerns us, and it is this feature of the measure which has caused the President to feel anxiety as to its possible effect on the business and social relations of American citizens, particularly those of Irish birth.

Many Irish-American citizens have parents, brothers, and sisters resident in Ireland, and whenever they learn of their destitution, as the most effective mode of relief, they send a member of the family to Ireland with the means to aid them. The possibility that persons in pursuit of their lawful business enterprises, or on their mission of benevolence, should come under the operation of the proceedings contemplated by provisions of the new law, is much to be deprecated. The opportunities for this kind of annoyance which the act affords for the gratification of private enmity, as you justly remark, increases the grounds of this apprehension, and when to this is added the superserviceable zeal of local officials, it is hardly to be expected that an Irish-American citizen, however innocent he might be in act and intention, should consider his person or his property safe in that country. His private, although temporary abode, may be forcibly visited by night or day, his papers and his valuables may be taken from him and subjected to search, and he may be ordered out of the country at the will of the executive with the stigma of guilt upon him and without having had an opportunity for hearing or trial. The President, moreover, cannot contemplate the enforcement of this measure on mere suspicion against American citizens without fears of its having an unhappy influence upon the good feeling which exists between two great nations of common origin and common language.

I need scarcely add that this government has no sympathy with the motives or the methods of the class of indiscreet individuals, insignificant in number, in this country whose ill-directed zeal can neither serve the cause of Ireland nor reflect credit on the country of their adoption. The law-abiding and peaceable American citizens of Irish birth should not be exposed to suffer on their account.

The President, looking only to the interests of American citizens, has deemed it proper that these suggestions should be transmitted to you in view of any future contingency. It would be difficult, in the absence of any actual case, to give you any more specific instructions. Much must be left to your own judgment. Cases may arise when it will be necessary for you to act at once without consulting the department; in such cases the President trusts to your discretion.

You will, of course, keep the Department informed of whatever steps

you may find it necessary to take in any and every case that may come before you, using the telegraph for that purpose when you deem it expedient.

I am, &c.,

FRED'K T. FRELINGHUYSEN.

No. 144.

Mr. Hoppin to Mr. Frelinghuysen.

No. 254.] LEGATION OF THE UNITED STATES,
London, September 29, 1882. (Received October 12.)

SIR: Referring to Mr. Lowell's No. 434, of the 30th of August last, I have the honor to inclose herewith a copy of a letter which I received to-day from Lord Granville, in relation to the arrests of Mr. Henry George and Mr. Stephen J. Meany in Ireland. It will be observed that his lordship, after explaining the circumstances which led to the arrest of Mr. George, expresses the regret of Her Majesty's Government at the occurrence.

I have the honor, &c.,

W. J. HOPPIN.

[Inclosure in No. 254.]

Lord Granville to Mr. Hoppin.

FOREIGN OFFICE, *September* 27, 1882.

SIR: I lost no time in referring to the Lord Lieutenant of Ireland the request contained in Mr. Lowell's note of the 29th ultimo, for an explanation of the circumstances which led to the recent arrests in that country of two American citizens, Mr. H. George and Mr. Stephen J. Meany, and I have now the honor to lay before you the following statement:

With regard to Mr. George, who was arrested at Loughrea, in the county Galway, on the 8th of August, I am informed that during the three days that he was in that district his movements and the persons with whom he associated raised a suspicion in the minds of the local officers that he was there for an unlawful purpose.

At Ballinasloe he associated with an ex-suspect (named Mat Harris) who has been for years identified prominently and mischievously with organizations against law and order, and accordingly on his arrival at Loughrea he was arrested by the police at 6.30 p. m., and brought before the resident magistrate, who, however, after hearing the case, ordered his release, which took place at 9 o'clock the same evening. He went on the following day to Athenry, in the same county, where he was seen the day after in close conversation with persons who were well known to the police as being active in illegal organizations. He was accordingly rearrested and brought before the resident magistrate, who reported that he regarded Mr. George's presence and action in the county as calculated to endanger peace and good order, and that he would have dealt with him under the 12th section of the prevention of crime act, and put him under a rule of bail, were it not a case which, in his opinion, would come under the provisions of the alien act, should the Lord Lieutenant so decide. Thereupon Mr. George was again released.

The movements of Mr. George, and the notorious character of some of the persons with whom he associated on his arrival from the United States, were calculated to excite suspicion as to the object of his visit to Ireland, and I am convinced that the United States Government will readily acknowledge that considerable allowance must be made for the difficulties with which the officials charged with the preservation of order in that country have to contend at the present time. Nevertheless, in view of the information furnished by Mr. Lowell, as to the character and pursuits of Mr. George, which certainly rebut any presumption of unlawful designs on his part, I can only express to you the regret of Her Majesty's Government that this incident should have occurred.

I beg now to refer to the case of Mr. Stephen J. Meany, who was arrested at Ennis on the 10th August. Mr. Meany has long been under the observation of the police, and with good reason, for he was, in 1867, convicted of treason, felony, and sentenced to 15 years penal servitude. He was released in 1868 on the ground of ill health, and since then has, on numerous occasions, delivered inflammatory and seditious lectures.

It was proved before Mr. Purcell, the resident magistrate before whom he was brought, that the last time he had been in Ennis, notices of a disloyal nature were extensively posted throughout the town, and he stated to Mr. Purcell that he was an Irish revolutionist. I may also be allowed to remind you that he is invariably spoken of as such in the Irish newspapers published in the United States.

Mr. Purcell ordered him to give security himself in £50 and two sureties of £25 to be of good behavior for a period of six months. He was at the time unable to get sureties, and remained in the police barracks till next morning, when he was released on the required bail being entered into.

Notwithstanding the suspicion which attaches to a person of Mr. Meany's character and antecedents, the lord lieutenant, after carefully reviewing his past history, has come to the conclusion that his presence in a proclaimed district, is rather to be attributed to a desire for notoriety, and an attempt to regain some weight, which he appears to have forfeited with persons of extreme views than to "criminal intent" within the meaning of the twelfth section of the prevention-of-crime act, and I have accordingly the honor to inform you that Lord Spencer has issued instructions that Mr. Meany is not to be interfered with by the police.

I trust that the above explanation, as well as the action of Her Majesty's Government in these two cases, will be appreciated by the Government of the United States, and I have the honor, &c.,

GRANVILLE.

No. 145.

Mr. Frelinghuysen to Mr. Lowell.

No. 466.] DEPARTMENT OF STATE,
Washington, October 3, 1882.

SIR: I have to acknowledge your No. 434, of the 30th August last, in relation to the arrest of Mr. Henry George.

This Department was first informed of Mr. George's arrest by reports in the newspapers, and then telegraphed to you. Mr. George being in Great Britain, it was supposed he would communicate to you in writing the facts as to his arrest and thus afford you a basis for proper action. He however seems not to have written to you on the subject.

After his release he had, it is understood, a personal interview with you, and the action thereupon promptly taken by you on the information you possessed is justified by the statements herein contained.

His letter to the President, which at once appeared in the newspapers and was referred to this Department, contained the first detailed statement of the facts received here. As I understand that no similar communication has been made to you, I inclose a copy of the letter.

Mr. George is a citizen of the United States and a gentleman well known in this country. He states that in October, 1881, he landed in Ireland, and since then he has traveled in Great Britain, always conducting himself in a lawful manner. On the 8th of August last, he started from Dublin for the west of Ireland, and on his arrival in the town of Loughrea, at about six o'clock in the evening, he was seized by the constabulary, carried to the police prison, where, in spite of his declaration that he was a citizen of the United States, traveling through the country without criminal intent or unlawful purpose, he was held a close prisoner for about three hours, during which time his baggage and person were searched and all his letters and papers minutely examined. Finally a magistrate arrived, who was informed by the subinspector that Mr. George had been arrested upon telegraphic information that he was a

suspicious stranger; but Mr. George's, request to be informed of the source of the information and the ground of suspicion was refused. The subinspector further stated that nothing suspicious had been found upon Mr. George's person or in his effects. He was thereupon discharged. Mr. George immediately protested in what appears to be proper terms against the treatment he had received, stating that he should have been given reasonable opportunity for clearing up any suspicion which might have been entertained of him before being arrested, imprisoned, and searched.

On the following day Mr. George left Loughrea and proceeded to Athenry, a town but a few miles distant in the same county and within the jurisdiction of the same inspector and magistrate. There he remained one night, and the next morning, after having visited the antiquities of the place, was about to take the train for Galway, when he was again stopped by a subinspector of constabulary and questioned as to his name, nationality, business, from whence he had come, and whither he was going. To all these questions he gave true answers, showing him to be an American citizen of reputable character traveling upon lawful business. Nevertheless, he was not permitted to take the train, but was again placed under arrest, carried to the police barracks, and his clothing and baggage again searched in the same manner as at Loughrea, and this notwithstanding the fact that his arrest, search, and discharge at Loughrea were known to the constabulary at Athenry. Mr. George, who in the whole matter appears to have acted with discretion and within his rights, demanded to be promptly taken before a magistrate, but was detained a close prisoner until the arrival in the evening of the same magistrate before whom he was examined at Loughrea; yet even then he was not discharged until nearly midnight, and after again being subjected to a long examination.

The President is persuaded that the acts so justly complained of must have been committed without authority by subordinate officials of the government. But while the first arrest was an annoyance to which innocent travelers should not be subjected, and while the search and examination were not justifiable, and seem to have been conducted in a manner not consonant with the spirit of the laws both of Great Britain and the United States, it is particularly to the repetition of the indignity that the President wishes your attention to be directed.

The second arrest occurred within forty-eight hours after the first; it was made within the same jurisdiction by officers conversant with what had occurred at Loughrea, who again searched his person and effects, and again forced Mr. George to undergo an examination, and that before the same magistrate who had interrogated him at Loughrea.

These acts indicate an intention on the part of the officials to subject Mr. George to unnecessary personal annoyance.

Nor can this action be excused by the fact that he is alleged to have visited the ruins of Athenry in company with the curate and another gentleman, or that he was seen to enter shops of alleged "suspects." The examination of Mr. George at Loughrea had presumably shown the object of his presence in Ireland, and should have convinced the authorities without an additional examination that his visit to the ruined abbey was one of curiosity, and that he entered the shops with the innocent purpose of making purchases.

Mr. George's conduct in Athenry appears to have been natural to a traveler seeking information and amusement, and such as could not fairly subject him to suspicion. While citizens of the United States traveling or resident abroad are subject to the reasonable laws of the

country in which they may be sojourning, it is nevertheless their right to be spared such indignity and mortification as the conduct of the officers at Loughrea and Athenry seems to have visited upon Mr. George.

This government is loath to believe that the current rumors are true that the behavior of the officers and magistrate was prompted by a prejudice said to exist among the officials in Ireland against citizens of the United States.

In Great Britain, as in the United States, it has been a governmental principle that the right of the individual to exemption from arrest or search without good reason, and without the observance of forms calculated to insure that right, should be jealously guarded, and when unfortunate events have demanded a temporary suspension or qualification of the right great care has been exerted to avoid injustice or unnecessary indignity.

The power given to subordinate officials by the "prevention-of-crime act" is so great and the rights subjected to their discretion are so important that foreign governments may reasonably require that so far as their citizens, present in Ireland on legitimate and proper business, are concerned, the individuals selected to administer that act should be competent, well-informed, and unprejudiced. And should it appear that these officials have in the case of such foreign citizens misused the powers intrusted to them, they should be subjected to such condemnatory action, and the citizen wronged should receive such amends as the facts may warrant.

The President regrets to observe that, so far as he has the facts before him, the officials at Loughrea, and Athenry seem to have fallen far short of treating the rights of an innocent traveler with that respect which he cannot doubt Her Majesty's Government exacts of subordinate officials.

It is not necessary now to comment upon the law under color of which these arrests were made.

As you have already addressed a note to Lord Granville on this subject, a reply will probably soon be received by you. It is trusted that the tenor of that reply may prove satisfactory to this government and also relieve Mr. George from any reproach the arrests are calculated unjustly to cast upon him. More definite instructions, therefore, than those herein contained and those heretofore received by you need not now be given.

You are authorized, if you deem it advisable to do so, to read this instruction to Lord Granville, and, should he desire it, to leave a copy of it with him.

I have, &c.,

FRED'K T. FRELINGHUYSEN.

[Inclosure in No. 466.]

Mr. George to the President.

DUBLIN, *August* 26, 1882.

SIR: I desire respectfully to call your attention to annoyances and indignities to which citizens of the United States traveling in Ireland are exposed, and for that purpose to state my own experience:

I am a citizen of the United States, born in the State of Pennsylvania, and long a citizen of the State of California. I landed first in Ireland on the 25th of October, 1881, and have, in all parts of the dominions of the Queen of Great Britain and Ireland that I have since visited, conducted myself in a lawful manner.

On the 8th instant I started from the city of Dublin for the west of Ireland for the

purpose of seeing the country and informing myself as to the condition of its people. Immediately upon my arrival in the town of Loughrea, in the county of Galway, at about six o'clock in the evening, I was seized by the royal Irish constabulary and carried to the police prison, where, in spite of my declaration that I was a citizen of the United States of reputable character, traveling through the country without criminal intent or unlawful purpose, I was held a close prisoner for about three hours, during which time my baggage and person were searched, and all my letters and papers minutely examined by a number of constables. Finally a magistrate, to wit, Resident Magistrate Byrne, was brought. The subinspector of constabulary declared to him that he had arrested me upon telegraphic information that I was a suspicious stranger, but my request to be informed of the source of the information and ground of suspicion was refused. The subinspector further stated that nothing suspicious had been found upon my person or in my effects. The magistrate upon this discharged me from custody.

I thereupon protested to the magistrate against the imprisonment and indignity to which I had been subjected as unprovoked, unnecessary, and unreasonable, declaring if any suspicion had been entertained of me I should have been given reasonable opportunity of clearing it up before being arrested, imprisoned, and searched.

On the following day I left Loughrea, and proceeded to Athenry, a town but a few miles distant in the same county, and within the district of the same police inspector and the jurisdiction of the same resident magistrate. I staid there for the night, and, having during the next morning viewed the antiquities of the place, was about taking the train to proceed to the town of Galway, when I was stopped by a subinspector of constabulary and questioned as to my name, nationality, business, from whence I had come, whither I was going, &c. To all of these questions I gave true answers—said answers showing that I was an American citizen of reputable character, traveling upon lawful business. Nevertheless, I was not permitted to take the train, but was placed under arrest, carried to the police barracks, and my clothing and luggage again searched in the same manner as at Loughrea, notwithstanding the fact that my arrest, search, and discharge at Loughrea were well known to the constabulary at Athenry. And, although I demanded to be promptly taken before a magistrate, I was detained a close prisoner until the same magistrate before whom I had been taken at Loughrea had arrived at Athenry in the evening; and then I was not discharged until nearly midnight, and after a long and frivolous examination, having been restrained of my liberty for about ten hours and compelled, owing to the running of the trains, to lose nearly a day in my journey.

The wantonness of this second arrest and imprisonment will appear not merely from the fact that my arrest, search, and discharge at Loughrea were well known to the constabulary at Athenry, but from the reason for my arrest given to the magistrate by the subinspector, who deposed that he had arrested me because I had in the town of Athenry associated with suspicious persons, and who in proof of this brought forward ten constables who testified that they had seen me visiting the ruins of an old abbey in company with the Rev. Father McPhilpin, the Catholic curate of Athenry, and an English gentleman, Mr. James Leigh Joynes, of Eton College; and also that they had seen me entering three shops on the main street (where I had gone to make a small purchase), and which they averred were the shops of "suspects," *i. e.*, persons who had been imprisoned on suspicion of having committed a certain crime peculiar to this country, to wit: "Of having encouraged divers persons to incite other persons to intimidate certain persons from doing what they had a legal right to do."

I would not, Mr. President, think of addressing you on this subject were my case an isolated one, as then it would merely show an abuse of power by certain individual officials. But, on the contrary, such cases are constantly occurring, and many American citizens have already, in various parts of this country, been subjected to similar and even to much worse indignities and hardships. And this evidently, not by accident, but because of being Americans; for while it is true that the masses of the people of these islands entertain towards us those feelings of friendship which it is to be hoped may always exist, it is at the same time notorious that by some of the local officials in certain parts of Ireland an American is regarded as peculiarly a subject for suspicion and annoyance.

I fully realize, Mr. President, that it is the duty of an American citizen in a foreign country to conform his conduct to the laws of that country, and that he cannot expect exemption from such police regulations as its government may deem necessary. But, at the same time, I submit to you that it is due to their own dignity that the United States should claim for their citizens traveling in countries with which they maintain relations of amity, exemption from wanton annoyances, unreasonable inquisitions, and imprisonment upon frivolous pretexts.

Yet, I regret to say that the belief prevails here that the United States take no interest in the treatment of their citizens in foreign parts. American citizens have been imprisoned here for long periods, without trial, and even without specific accusation, on the mere suspicion of just such officials as those of whom I have had experience,

as before related, while the only action taken by the United States in the matter, so far as known and currently reported here, is that American consuls have visited these imprisoned citizens and attempted to bribe them by offers of money into acknowledgment of the justice of such arbitrary imprisonment, by agreeing to leave the country as a condition of release. The contemptible position in which the United States have thus been placed in the eyes of the people of this country may be well imagined, but is not a pleasant thing for an American citizen to portray.

Having discharged what I deem to be my duty in laying these facts before you, as Chief Executive of the nation, for such consideration as you may deem it your duty to give them,

I am, Mr. President, &c.,

HENRY GEORGE.

P. S.—Insomuch as since I have been in Ireland mail matter of mine arriving from the United States has been detained in the Irish post-office, and, as I have been credibly informed, opened and burned, though all official information in relation thereto was refused me, and insomuch as it is the belief of many of the subjects of Her Majesty the Queen of Great Britain and Ireland, that their letters are tampered with in Her Majesty's post-offices, I take the precaution of sending this to the United States under cover, where it will be mailed to you.

No. 146.

Mr. Hoppin to Mr. Frelinghuysen.

[Extract.]

No. 256.] LEGATION OF THE UNITED STATES,
London, October 3, 1882. (Received October 14.)

SIR: I have the honor to acquaint you that on the 21st of September last I received a telegram from you, of which the following is the substance:

Ascertain accurately and inform us why an exception is made in the case of Brophy, who, it is understood, is still imprisoned.

I at once caused an unofficial inquiry to be made at the Irish office to obtain the information you desired. There being no person there who could answer the question, I addressed a note to Lord Granville on the 22d ultimo, of which I inclose a copy. Not having received an answer to this note, Mr. Nadal, at my request, went to the foreign office and saw Sir Julian Pauncefote. He was informed that a telegram had been sent to Dublin on the subject, and that whenever the reply arrived it should be communicated to me. Being still without an answer I addressed a second note to Lord Granville on the 28th of September, and on the 30th of that month I received a reply from his lordship on the subject. I inclose copies of the communications.

I sent you a telegram on the 30th of September, to the effect that I was only that morning informed, after repeated inquiries of foreign minister, that Brophy was released on the 19th, and was then in Dublin.

* * * * * * *

I have, &c.

W. J. HOPPIN,

[Inclosure 1 in No. 256.]

Mr. Hoppin to Lord Granville.

[Urgent.] LEGATION OF THE UNITED STATES,
London, September 22, 1882.

MY LORD: I have just received a telegram from Mr. Frelinghuysen of which the substance is as follows:

"Ascertain accurately and inform us why an exception is made in the case of Brophy, who, it is understood, is still imprisoned."

I beg leave to remind your lordship that this William Brophy is a naturalized citizen of the United States who has been imprisoned in Ireland under the act for the protection of person and property, and whose case has already been the subject of a correspondence between your lordship and this legation. It has been stated in the public journals that one William Brophy has been released from prison, but either they have not learned this at Washington or there is some question there as to the identity of the individual. May I therefore ask your lordship kindly to inform me as to the facts in this matter that I may send an early reply by cable to the telegram which I have communicated above?

I have, &c.,

W. J. HOPPIN.

[Inclosure 2 in No. 256.]

Mr. Hoppin to Lord Granville.

LEGATION OF THE UNITED STATES,
London, September 28, 1882.

MY LORD: Referring to my note of the 22d instant, to which I have not yet had the pleasure of a reply, I trust your lordship will pardon me if I repeat the request therein contained, that I may be informed whether William Brophy, an American suspect, detained under the protection of person and property (Ireland) act, and whose release from prison is said to have been announced in the newspapers, has been really discharged. I have been requested by telegram from the Department of State at Washington to ascertain the facts in this case.

I have, &c.

W. J. HOPPIN.

[Inclosure 3 in No. 256.]

Sir J. Pauncefote to Mr. Hoppin.

LONDON, *September* 29, 1882.

SIR: In reply to the inquiries contained in your notes of the 22d and 28th instant relative to William Brophy, I have the honor to inform you that I have to-day ascertained from the Irish Government that he was released from custody by order of the lord lieutenant on the 19th instant, and is now in Dublin.

I have, &c.

(In the absence of Earl Granville).

J. PAUNCEFOTE.

No. 147.

Mr. Hoppin to Mr. Frelinghuysen.

No. 262.] LEGATION OF THE UNITED STATES,
London, October 17, 1882. (Received October 28.)

SIR: I have the honor to acknowledge the receipt of your instruction of the 3d instant, numbered 463, relating to the arrest of Mr. Henry George, and addressed to Mr. Lowell, who has not yet returned to the legation. It states the fact that Mr. George had written a letter to the President, a copy of which would be inclosed in your dispatch.

As my No. 254, of the 29th of September last, contained a copy of Lord Granville's reply to Mr. Lowell's communication respecting Mr. George's arrest, it does not seem necessary that I should take any further action in this matter without additional instructions.

I have, &c.,

W. J. HOPPIN.

CORRESPONDENCE WITH THE LEGATION OF GREAT BRITAIN AT WASHINGTON.

No. 148.

Lord Granville to Mr. West.

FOREIGN OFFICE, *January* 7, 1882.

SIR: In my dispatch No. 279*a* of the 13th ultimo I informed you that the United States minister at this court had communicated to me the substance of a dispatch which he had received from Mr. Blaine, then Secretary of State, on the subject of the convention of the 19th April, 1850. Finding that Mr. Lowell was authorized to give me a copy of this dispatch if I wished it, I requested him to do so, and I have already forwarded to you a copy for your information.

Her Majesty's Government have given their careful consideration to the views set forth in this paper. They entirely agree in the statement made towards its conclusion as to the cordial relations so happily existing between the two countries, and as to the opportunity which this state of things affords for a frank exposition of the views held by either government without risk of misconstruction. They have no hesitation, therefore, in proceeding to examine the grounds advanced by Mr. Blaine for desiring a modification of the convention.

The principles upon which the whole argument of the dispatch is founded are, as far as I am aware, novel in international law. If a discussion of the subject on the abstract grounds of public right were deemed useful or opportune, it would not be difficult to quote passages from publicists of acknowledged authority in both countries in support of this opinion. But for several reasons it will be better to treat the matter from the side of the practical considerations which it involves, without, of course, being precluded from reverting at any future stage, in case of need, to its other aspect.

Her Majesty's Government cannot admit that the analogy which it is sought to draw from the conduct of Great Britain in regard to the Suez Canal is correct or justified by the facts. They have made no attempt to fortify the island of Cyprus, or to establish it as an armed position on an important scale, though they have an undoubted right to do so. The fortress of Gibraltar, the island of Malta, and the military establishment at Aden came into the possession of England at a date long anterior to the time when the Mediterranean and the Red Sea could be regarded as a military route to India. For years afterwards the whole mass of reinforcements for India was sent by way of the Cape of Good Hope. Nor has any serious addition been made to the strength of these positions since the opening of the canal beyond what has been a natural consequence of the improvements in military science. Although no doubt well adapted by its situation to command the Straits of Bab-el-mandeb, the island of Perim has not in any real sense been made a fortified position. The fort and garrison on the island are, in fact, sufficient only to protect the light-house, which has been erected there for the general benefit of navigation, from possible attack by predatory Arabs.

The Navy Department of the United States must be well aware that Her Majesty's Government have never sought to bar or even to restrict the use of the canal by the naval forces of other countries, and that even during the recent war between Russia and Turkey, when the canal itself formed a portion of the territory of one of the belligerents, when the seat of conflict was close at hand, and when British interests might in

many other respects have been nearly involved, they contented themselves with obtaining an assurance that the sphere of operations should not be extended to the canal.

Her Majesty's Government cordially concur in what is stated by Mr. Blaine as regards the unexampled development of the United States on the Pacific coast, and the capacity which they possess for further progress. That development has been watched in this country with admiration and interest, and will continue to be so regarded. But though in rapidity it may, and probably has, exceeded the most sanguine calculation, Her Majesty's Government cannot look upon it in the light of an unexpected event, or suppose that it was not within the view of the statesmen who were parties on either side to the Clayton-Bulwer treaty. The declarations of President Monroe and of his cabinet, in 1823 and 1824, whatever may be the view taken of their scope and bearing, and of the admissibility of the principles which they involve, or which it is sought to deduce from them, show at least that at that period—twenty-six years anterior to the treaty now under discussion—there was a clear prevision of the great future reserved to the Pacific coast. It is, in the opinion of Her Majesty's Government, an inadmissible contention that the regular and successful operation of causes so evident at the time, and in their nature so irrepressible, should be held to have completely altered the condition of affairs to the extent of vitiating the foundations of an agreement which cannot be supposed to have been concluded without careful thought and deliberation.

While recognizing to the fullest degree the extent to which the United States must feel interested in any canal which may be constructed across the Isthmus of Panama, Her Majesty's Government would be wanting in regard to their duty if they failed to point out that Great Britain has large colonial possessions, no less than great commercial interests, which render any means of unobstructed and rapid access from the Atlantic to the North and South Pacific Oceans a matter for her also of the greatest importance.

The development of these possessions and interests has steadily continued, possibly with less rapidity, but on a scale which has some relation even to that of the Pacific States. Her Majesty's Government do not wish to ignore the share which other nations have acquired in the commerce of Central and South America, nor to exclude from consideration the interest of those countries in any canal which may be made across the isthmus. They are of opinion that such a canal, as the waterway between two great oceans and between all Europe and Eastern Asia, is a work which concerns not merely the United States or the American Continent, but the whole civilized world. This is a view which finds its expression in the VIth article of the treaty of 1850. Her Majesty's Government are as anxious as that of the United States that, while all nations should enjoy their proper share in the benefits to be expected from the undertaking, no single country should acquire a predominating influence or control over such a means of communication; and they will not oppose or decline any discussion for the purpose of securing on a general international basis its universal and unrestricted use.

With all deference to the considerations which have prompted *the proposals made in Mr. Blaine's dispatch*, Her Majesty's Government cannot believe that they would promote this object or be beneficial in themselves. The relations of the United States with the European powers are fortunately of a nature to give rise to no feelings of suspicion or alarm. The general tendency of their foreign policy gives good promise that they will so continue. But if provision is to be made on one side for a different state of affairs, it must be expected that the course thus

indicated will find its natural and logical counterpart on the other. Her Majesty's Government can conceive no more melancholy spectacle than a competition among the nations holding West Indian possessions, and others on the Central and South American Continent, in the construction of fortifications to obtain the command over the canal and its approaches, in the event of occasion arising for such a measure. They cannot believe that it would be agreeable or convenient to any South American state through which the canal may pass to find itself called upon to admit a foreign power to construct and garrison on its territory a succession of fortresses of increasing magnitude, designed to oppose such attempts, even though that foreign power be a neighboring one, and situated upon the same continent. And when the claim to do this is accompanied by a declaration that the United States will always insist on treating the water-way which shall unite the two oceans "as part of her coast line," it is difficult to imagine that the states to which the territory lying between that water-way and the United States belongs can practically retain as independent a position as that which they now enjoy.

These are the consequences which, in the conviction of Her Majesty's Government, would almost certainly follow from a claim on the part of the United States to assume the supreme authority over the canal and all responsibility for its control. Her Majesty's Government hold, on the contrary, that the principles which guided the negotiators of the convention of 1850 were intrinsically sound, and continue to be applicable to the present state of affairs. Their wish would be that those principles should receive the practical development which was contemplated at the time; and that effect should be given to that portion of the treaty which provides that the contracting parties shall invite all other states with whom they have friendly intercourse to enter into similar stipulations with them.

A certain amount of progress was made in this direction by the conclusion of conventions with Honduras and Nicaragua by Great Britain in 1856 and 1860, and by the United States in 1864 and 1867, and by Nicaragua with France in 1859, with the object of upholding the general principles inserted in the treaty. During the period when there were still matters to regulate with respect to Grey Town, the Bay Islands, the frontier of British Honduras, and the protection of the Mosquito Indians, and when the construction of a canal still seemed a contingency more or less doubtful and remote, it was not strange that the engagement to address other powers should have been allowed to remain dormant; but the project of the canal has now assumed sufficient shape to render such an application reasonable and pertinent.

Her Majesty's Government believe that the extension of an invitation to all maritime states to participate in an agreement based on the stipulations of the convention of 1850 would obviate any objection that may possibly be raised against it as not being adequate in its present condition for the purpose for which it was designed. This course formed the basis of Mr. Fish's proposal to Dr. Cardenas, the Nicaraguan minister, in 1877; and Her Majesty's Government would gladly see the United States again take the initiative in an invitation to the powers, and will be prepared either to join it or to support and indorse it in the way that may be found most fitting and convenient, provided it does not in any way conflict with the Clayton-Bulwer treaty.

You are authorized to read this dispatch to the Secretary of State, and to give him a copy of it if he should desire it.

I am, &c.,

GRANVILLE.

The honorable LIONEL S. S. WEST.

No. 149.

Lord Granville to Mr. West.

FOREIGN OFFICE, *January* 14, 1882.

SIR: In my dispatch No. 296 of the 31st ultimo, I have forwarded to you a copy of a dispatch from Mr. Blaine to the United States minister at this court, containing further observations in support of his arguments and proposals for a modification of the treaty between this country and the United States of the 19th of April, 1850. In this dispatch Mr. Blaine gives extracts from the correspondence which passed between the two governments between 1856 and 1858, in consequence of questions that arose as to the construction to be placed on certain provisions of the treaty. Mr. Blaine seeks to establish from these extracts that "the vexatious and imperfect character of the treaty has been repeatedly recognized on both sides;" and he adds that the present proposal of the United States Government "is to free it from those embarrassing features, and to leave it, as its framers intended it should be, a full and perfect settlement, for all time, of all possible issues between the United States and Great Britain with regard to Central America."

The correspondence in question was laid before Parliament in 1860, and the principal papers included in it have also been published in Hertslet's State Papers.* A reference to the context of the passages quoted by Mr. Blaine will be necessary in order to appreciate the character which Mr. Blaine has attributed to them.

In cases where the details of an international agreement have given rise to difficulties and discussions to such an extent as to cause the contracting parties at one time to contemplate its abrogation or modification as one of several possible alternatives, and where it has yet been found preferable to arrive at a solution as to those details rather than to sacrifice the general basis of the engagement, it must surely be allowed that such a fact, far from being an argument against that engagement, is an argument distinctly in its favor. It is equally plain that either of the contracting parties which had abandoned its own contention for the purpose of preserving the agreement in its entirety would have reason to complain if the differences which had been settled by its concession were afterwards urged as a reason for essentially modifying those other provisions which it had made this sacrifice to maintain. That both these arguments apply in the present instance a brief review of the correspondence will, I think, suffice to show.

The treaty of 1850 was concluded (as is declared in the VIIIth Article) with the desire "not only to accomplish a particular object, but also to establish a general principle," in regard to the protection, by treaty stipulations, of any practical communications, whether by canal or railway, across the isthmus which connects North and South America.

The preamble and 1st article of the treaty run as follows:

Her Britannic Majesty and the United States of America, being desirous of consolidating the relations of amity which so happily subsist between them, by setting forth and fixing in a convention their views and intentions with reference to any means of communication by ship-canal, which may be constructed between the Atlantic and Pacific Oceans, by the way of the river St. Juan de Nicaragua, and either or both of the lakes of Nicaragua or Managua, to any port or place on the Pacific Ocean; * * *

ART. I. The Governments of Great Britain and the United States hereby declare that neither the one nor the other will ever obtain or maintain for itself any exclusive

* Vol. xl, p. 953; xli, p. 757; xlii, p. 153; xlvi, p. 244; xlvii, p. 661; xlviii, p. 630; l, p. 126.

control over the said ship-canal; agreeing that neither will ever erect or maintain any fortifications commanding the same, or in the vicinity thereof, or occupy, or fortify, or colonize, or assume or exercise any dominion over Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America; nor will either make use of any protection which either affords, or may afford, or any alliance which either has, or may have, to or with any state or people, for the purpose of erecting or maintaining any such fortifications, or of occupying, fortifying, or colonizing Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America, or of assuming or exercising dominion over the same. Nor will Great Britain or the United States take advantage of any intimacy, or use any alliance, connection, or influence that either may possess with any state or government through whose territory the said canal may pass, for the purpose of acquiring or holding, directly or indirectly, for the subjects or citizens of the one, any rights or advantages in regard to commerce or navigation through the said canal which shall not be offered, on the same terms, to the subjects or citizens of the other.

Soon after the signature of the treaty various discussions arose as to the interpretation to be put upon those clauses which debarred either of the contracting parties from occupying, fortifying, or colonizing, or assuming or exercising any dominion over Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America, &c. Great Britain being at the time in possession of Ruatan and other islands off the coast of Honduras, and having a protectorate over the Mosquito Indians located on the coast of Nicaragua, a lengthened correspondence arose as to the effect to be given to the treaty in this respect, and also as to the boundary of British Honduras. A treaty was eventually signed by Lord Clarendon and Mr. Dallas, for the settlement of the various questions at issue, on the 17th October, 1856; but this agreement was not received with favor by the United States Senate, and the incoming government of President Buchanan, who had acceded to office in March, 1857, declined to confirm it without certain modifications. To these the British Government proposed further amendments, which were not at that time deemed acceptable by that of the United States, and the treaty was never formally ratified.

To show how far this part of the discussion belonged in some of its features to a state of affairs that is now past, one of the objections taken by General Cass to the treaty in its last amended form was that it involved a recognition by the United States of a treaty between Great Britain and Honduras for the cession of the Bay Islands to the latter country, in which it was stipulated that slavery should not at any time be permitted to exist there. General Cass stated that "a treaty with such a provision would never be recognized by a United States Senate." (Lord Napier to Lord Clarendon, May 3, 1857.)

I now proceed to examine some of the extracts given in Mr. Blaine's dispatch.

The first paper quoted is one from Lord Napier to the Earl of Clarendon, dated the 12th March, 1857.

The only passage quoted is as follows:

General Cass then passed some reflections on the Clayton-Bulwer treaty; he had voted for it, and in doing so he believed that it abrogated all intervention on the part of England in the Central American territory. The British Government had put a different construction on the treaty, and he regretted the vote he had given in its favor.

But the dispatch goes on to say:

He did not, however, pretend that the British Government should now unconditionally abandon the Mosquitos, with whom they had relations of an ancient date; it was just, and consistent with the practice of the United States, that those Indians should be secured in the separate possession of lands, the sale of which should be prohibited, and in the enjoyment of rights and franchises, though in a condition of dependency and protection. The British Government had already removed one impediment to the execution of the Bulwer-Clayton treaty by the cession of their claims on

Ruatan; two difficulties now remained—the frontier of Belize, and delimitation and settlement of the Mosquito tribe. If the frontier could be defined, and if the Mosquitos could be placed in the enjoyment of their territory by treaty between Great Britain and Nicaragua, in which the concessions and guarantees of the latter in favor of the Indians should be associated with the recognition of the sovereignty of Nicaragua—so I understood the general—*then the Bulwer-Clayton treaty might be a permanent and satisfactory settlement between the contracting parties*; the United States desiring nothing else than an absolute and entire neutrality and independence of the Central American region, free from the exercise of any exclusive influence or ascendancy whatever.

The next quotation is from another dispatch of Lord Napier, dated the 6th of May, 1857, and the passage given runs thus:

The President denounced the Clayton-Bulwer treaty as one which had been fraught with misunderstanding and mischief from the beginning; it was concluded under the most opposite constructions by the contracting parties. If the Senate had imagined that it could obtain the interpretation placed upon it by Great Britain, it would not have passed. If he had been in the Senate at the time, that treaty never would have been sanctioned.

But President Buchanan went on to say:

With reference to arbitration (which Lord Napier had only thrown in as a suggestion of his own), he could not give any opinion at present. The President also inveighed against the excess of treaties, affirming that they were more frequently the cause of quarrel than of harmony, and that if it were not for the interoceanic communications, he did not see there was any necessity for a treaty respecting Central America at all.

It seems, therefore, that the President's condemnation of the Clayton-Bulwer treaty was principally founded on the construction placed upon it by Great Britain at the time, and was also in some measure explained by his objections to treaties in general, but that he admitted that the question of the interoceanic connection made such an agreement necessary.

Mr. Blaine then quotes a note from Mr. Cass to Lord Napier, of the 29th May, 1857, as follows:

The Clayton-Bulwer treaty, concluded in the hope that it would put an end to the differences which had arisen between the United States and Great Britain concerning Central American affairs, had been rendered inoperative in some of its most essential provisions by the different constructions which had been reciprocally given to it by the parties. And little is hazarded in saying that, had the interpretation since put upon the treaty by the British Government, and yet maintained, been anticipated, it would not have been negotiated under the instructions of any Executive of the United States, nor ratified by the branch of the government intrusted with the power of ratification.

But how does General Cass continue? He goes on to say:

A protracted discussion, in which the subject was exhausted, failed to reconcile the conflicting views of the parties; and, as a last resort, a negotiation was opened for the purpose of forming a supplementary treaty which should remove, if practicable, the difficulties in the way of their mutual good understanding, and leave unnecessary any further discussion of the controverted provisions of the Clayton-Bulwer treaty. It was to effect this object that the Government of the United States agreed to open the negotiation which terminated in the treaty of the 17th October, 1856, and though the provisions of that instrument, even with the amendments proposed by the Senate, were not wholly unobjectionable either to that body or to the President, still, *so important did they consider a satisfactory arrangement of this complicated subject*, that they yielded their objections, and sanctioned, by their act of ratification, the convention as amended. It was then transmited to London for the consideration of Her Britannic Majesty's Government, and, having failed to meet its approbation, has been returned unratified. The parties are thus thrown back upon the Bulwer-Clayton treaty, with its disputed phraseology and its conflicting interpretations; and after the lapse of seven years, not one of the objects connected with the political condition of Central America which the United States had hoped to obtain by the arrangement has been accomplished.

It was not, therefore, to the principles or basis of the arrangement (the importance of which was fully recognized), but to the unfortunate phraseology of a single portion of the treaty, that objection was taken.

Mr. Blaine then refers to Sir W. Gore Ouseley's missions, the object of which was to settle the points at issue in a manner practically satisfactory to the United States by independent negotiations with the Central American states, after first communicating with the government at Washington. Mr. Blaine quotes a passage from a letter of General Cass to Lord Napier, of the 20th October, 1857, as follows:

I have thus endeavored to meet the frank suggestions of your lordship by restating, with corresponding frankness, the general policy of the United States with respect to the governments and the interoceanic transits of Central America; but since your lordship has referred to the Clayton-Bulwer treaty of 1850 as contemplating a "harmonious course of action and counsel between the contracting parties in the settlement of the Central American interests," you will pardon me for reminding your lordship that the differences which this treaty was intended to adjust between the United States and Great Britain still remain unsettled, while the treaty itself has become the subject of new and embarrassing complications.

It will be useful to refer to the previous portion of this note to show what was the statement of the "general policy of the United States" thus referred to, and how far that policy corresponds with Mr. Blaine's present proposals. The note begins thus:

I have had the honor to receive your lordship's communication of the 9th instant, in reference to the existing relations between Nicaragua and Costa Rica, and have submitted it to the consideration of the President.

These relations have attracted the earnest attention of the President, not only from the importance of the San Juan transit to the commerce of the world, but from the interest which is naturally felt by the United States in the neighboring republics of this continent. The President has witnessed, therefore, the restoration of peace to Nicaragua and Costa Rica with the highest gratification; and he sincerely hopes that it may not again be interrupted, either by the calamity of civil war or the invasion of their territory from other countries. Their security and welfare would undoubtedly be promoted by a just and friendly settlement between them of their mutual boundaries and jurisdiction; and I need hardly add that such an adjustment would be viewed with satisfaction by the United States. This government, however, has never admitted the pretensions of Costa Rica to an equal control with Nicaragua of the San Juan River, but has regarded the sovereignty of the river, and consequently of the interoceanic transit by that route, as rightly belonging to the republic of Nicaragua.

A similar view of the question appears to have been recognized by Great Britain; and, whatever may be the rights of Costa Rica with respect to the free passage of her own products by the river to the ocean, it is better, probably, that what has been thus acquiesced in, and has led, moreover, to important contracts and responsibilities, should not now be disturbed. But under any circumstances the commercial nations of the world can never permit the interoceanic passages of the isthmus to be rendered useless for all the great purposes which belong to them in consequence of the neglect or incapacity of the States through whose territories they happen to run. *The United States, as I have before had occasion to assure your lordship, demand no exclusive privileges in these passages* but will always exert their influence to secure their free and unrestricted benefits, both in peace and war, to the commerce of the world.

And in a later note to Lord Napier, of the 8th November, 1858, General Cass states with still greater clearness the object with which the treaty was concluded, and the grounds on which the difference between the two governments had arisen. He says:

Since the announcement by your lordship, in October, 1857, of Sir William Ouseley's special mission, the President has awaited not so much any new proposition for the adjustment of the Central American questions as the statement in detail, which he had been led to expect, of the method by which Sir William Ouseley was to carry into effect the previous proposition of the British Government. To make this plain, your lordship will pardon me for making a brief reference to what has occurred between the two governments in respect to Central America since the ratification of the Clayton-Bulwer treaty of 1850.

While the declared object of that convention had reference to the construction of a ship-canal, by the way of San Juan and the Lakes of Nicaragua and Managua, from the Atlantic to the Pacific Oceans, *yet it avowed none the less plainly a general principle in reference to all practicable communications across the isthmus, and laid down a distinct policy by which the practical operation of this principle was likely to be kept free from all embarrassment. The principle was that the interoceanic routes should remain under the sov-*

ereignty of the states through which they ran, and should be neutral and free to all nations alike. The policy was that, in order to prevent any government outside of those states from obtaining undue control or influence over those interoceanic transits, no such nation should erect or maintain any fortifications commanding the same, or in the vicinity thereof, or should "occupy, or fortify, or colonize, or assume, or exercise any dominion over Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America." So far as the United States and Great Britain were concerned, those stipulations were expressed in unmistakable terms; and in reference to other nations it was declared that the "contracting parties in this convention engage to invite every state with which both or either have friendly intercourse to enter into stipulations with them similar to those which they have entered into with each other."

At that time the United States had no possessions whatever in Central America, and exercised no dominion there. In respect to this government, therefore, the provisions of Article I of the treaty could operate only as a restriction for the future; but Great Britain was in the actual exercise of dominion over nearly the whole eastern coast of that country, and in relation to her this article had a present as well as a prospective operation. She was to abandon the occupancy which she already had in Central America, and was neither to make acquisitions, or erect fortifications, or exercise dominion there in the future. In other words, she was to place herself in the same position with respect to possessions and dominion in Central America which was to be occupied by the United States and which both of the contracting parties to the treaty engaged that they would endeavor to induce other nations to occupy.

This was the treaty as it was understood and consented to by the United States, and this is the treaty as it is still understood by this government.

He then recapitulates the discussions and abortive negotiations which had ensued in consequence of the different interpretations put upon the treaty by the two governments: and, after criticising and expressing disappointment at the last communication made to him by Lord Napier, he concludes:

It is of no small consequence either to the United States or Great Britain that these Central American controversies between the two countries should be forever closed. On some points of them, and, I have been led to hope, on the general policy which ought to apply to the whole isthmian region, they have reached a common ground of agreement. The neutrality of the interoceanic routes, and their freedom from the superior and controlling influence of any one government; the principles upon which the Mosquito protectorate may be arranged, with justice alike to the sovereignty of Nicaragua and the Indian tribes; the surrender of the Bay Islands, under certain stipulations for the benefit of trade and the protection of their British occupants; and the definition of the boundaries of British Belize; about all these points there is no apparent disagreement, except as to the conditions which shall be annexed to the Bay Islands surrender and as to the limits which shall be fixed to the settlements of Belize. Is it possible that, if approached in a spirit of conciliation and good feeling, these two points of difference are not susceptible of a friendly adjustment? To believe this would be to underestimate the importance of the adjustment and the intelligent appreciation of this importance which must be entertained by both nations. What the United States want in Central America, next to the happiness of its people, is the security and neutrality of the interoceanic routes which lead through it. This is equally the desire of Great Britain, of France, and of the whole commercial world. If the principles and policy of the Clayton-Bulwer treaty are carried into effect, this object is accomplished. When, therefore, Lord Malmesbury invites new overtures from this government upon the idea that it has rejected the proposal embraced in Sir William Ouseley's mission for an adjustment of the Central American questions by separate treaties with Honduras, Nicaragua, and Guatemala, upon terms substantially according with the general tenor of the American interpretation of the treaty, I have to reply to his lordship that this very adjustment is all that the President has ever desired, and that, instead of having rejected that proposal, he had expressed his cordial acceptance of it, so far as he understood it, and had anticipated from it the most gratifying consequences.

Further, in a dispatch to Mr. Lamar of July 25, 1858, subsequently communicated to Lord Malmesbury by Mr. Dallas on the 29th of April, 1859, General Cass says:

These great avenues of intercommunication are vastly interesting to all commercial powers, and all may well join in securing their freedom and use against those dangers to which they are exposed from aggressions or outrages, originating within or without the territories through which they pass.

It is difficult to conceive a more distinct statement of adherence to the general principles of the Clayton-Bulwer arrangement or a more positive disclaimer of the policy involved in Mr. Blaine's present proposals than is contained in the passages I have just quoted.

I return, however, to the extracts given in Mr. Blaine's dispatch. Mr. Blaine alludes to an important interview which Lord Napier had with President Buchanan on the 19th October, 1857, in which Lord Napier asked that pending the negotiation intrusted to Sir W. Gore Ouseley no proposal to annul the Clayton-Bulwer treaty should be sanctioned or encouraged by the President or members of the United States Government. Lord Napier's account of the President's language is as follows:

> The President commenced his observations by referring to the Clayton-Bulwer treaty as a fruitful source of misunderstanding between the contracting parties. Without that treaty the United States and Great Britain might long since have cooperated for the welfare of Central America. That treaty had never been acceptable to the people of the United States, and would not have obtained a vote in the Senate had the least suspicion existed of the sense in which it was to be construed by Great Britain; yet, if it were now the intention of Her Majesty's Government to execute it according to the American interpretation, that was as much as we could insist upon.

And after reporting what passed at the interview with regard to the Bay Islands and Honduras, Lord Napier continued:

> I then went on to animadvert upon the danger of some movement in the approaching Congress which would interfere with the contemporary negotiation of Sir William Ouseley, remarking that should the President, in his message, allude to the position of the two countries in reference to Central America, and if, in consequence of his Excellency's reflections, a resolution should be proposed for the abrogation of the Clayton-Bulwer treaty, such a step would not only frustrate the purposes of Sir William Ouseley's mission, but would have a calamitous influence on the future relations of England and America. It would, therefore, be highly gratifying to me to be enabled to assure your lordship that pending the negotiation intrusted to Sir William Ouseley no proposal to annul the treaty would be sanctioned or encouraged by his Excellency or by the members of his government.
>
> The President stated, in reply, that it was certainly his intention to give an account in his message of all that had passed between the two governments respecting the Dallas-Clarendon treaty. He appeared to intimate that the effect of such a narrative would be to place the conduct of Great Britain in an unfavorable light, and he added that the passage in which he commented upon these transactions was already prepared; but his Excellency went on to affirm, with emphasis, that if the resolutions of her Majesty's Government were such as I had related, if they really meant to execute the Clayton-Bulwer treaty according to the American interpretation, and would, before the meeting of Congress, make some communication to him in that sense, such as he could use, he would cancel what he had written and insert another passage referring to the mission of Sir William Ouseley, and that "nothing would give him greater pleasure than to add the expression of his sincere and ardent wish for the maintenance of friendly relations between the two countries."
>
> His Excellency also distinctly declared that, under the circumstances here described, no attempt against the Clayton-Bulwer treaty in Congress would have any countenance from him whatever. To him it was indifferent whether the concession contemplated by Her Majesty's Government were consigned to a direct engagement between England and the United States, or to treaties between the former and the Central American republics; the latter method might, in some respects, be even more agreeable to him, and he thought it would be more convenient to Her Majesty's Government, who might, with greater facility, accede to the claims of the weaker party.

I pass over some passages given in Mr. Blaine's dispatch which seem to call for no remark, and I would only observe that the proposal for arbitration alluded to in Lord Napier's note to General Cass of February 17, 1858, applied only to the controverted points in the treaty, and not to the whole instrument.

Mr. Blaine refers to a conversation with General Cass, reported by Lord Napier in a dispatch of the 22d March, 1858, in which reference was made to the idea of an abrogation of the treaty. It may be well to

give a larger extract of this dispatch, because, although Lord Napier's remarks were stated to be personal and unofficial, they show his view of the form which such an abrogation should take. He says:

I have, accordingly, on two occasions, informed General Cass that, if the Government of the United States be still of the same mind, and continue to desire the abrogation of the treaty of 1850, it would be agreeable to Her Majesty's Government that they should insert a proposal to that effect in their reply to my note respecting arbitration, and to that in which I explained the character and motives of the mission intrusted to Her Majesty's commissioner in Central America.

Some conversation ensued regarding the manner in which the dissolution of the treaty should be effected, and the condition by which it might be accompanied, and on these topics I have held the following language, premising that the views expressed were altogether spontaneous and personal, for I had no information of the intentions of Her Majesty's Government beyond the bare fact that they would entertain a proposal to cancel the engagements of 1850 emanating from the United States.

I stated that, in my opinion, the treaty in question could only be repealed by a new treaty in the usual forms, and that it might be desirable that such a treaty should not be restricted to a single article annulling its predecessor. Both for considerations of decency and policy I advocated the insertion of stipulations involving an expression of a common policy in Central America, and the disavowal of any exclusive or monopolizing projects on either side. I said that I thought a treaty might be framed of three articles.

The first should declare the desire of the contracting parties to encourage and protect the organization of transit routes in the interoceanic region, and bind those parties never to negotiate for any rights or privileges of transit with the Central American states of a preferential or exclusive character, to which other nations might not, by negotiation, be equally admitted, establishing thus the principle of an equal enjoyment of those avenues of trade for all the countries of the world.

The second article might recognize the jurisdiction of the transit route by the San Juan River as being vested in the Government of Nicaragua. This had been already avowed by the United States in a treaty negotiated with that republic. It had not been definitely affirmed by Great Britain, and might seem to clash with the claims of the King of Mosquitia to territorial possession or authority in those parts. I thought, however, that in regard to the views lately expressed by Her Majesty's Government in the course of recent negotiations, in consideration of the necessity of obtaining a suitable treaty with Nicaragua, and for the purpose of placing themselves in harmony with the course pursued by the United States, Her Majesty's Government might, on this head, accede to an article which would practically restrict their protectorate in Mosquitia, and prevent the imputation of any interference on their part with the territory traversed by the river, and, therefore, by the transit route.

Finally, I suggested that Article III of the treaty should simply declare the provisions of the treaty of 1850 to be void and of no effect. I added that the question of future territorial acquisition in Central America would thus be thrown open to the United States; that Her Majesty's Government, on the other hand, would retain the colony of Honduras in the proportions which might be given to it by treaty arrangements with Guatemala, and that the Bay Islands would remain attached to the British Crown. Indeed, I affirmed, still as a personal opinion, but of the most positive character, that in case of the dissolution of the Clayton-Bulwer treaty, the Bay Islands would not be relinquished by Her Majesty's Government. I felt bound to make this statement, having observed in some quarters an impression that Her Majesty's Government might be disposed not only to annul the treaty, thus opening a path for the eventual annexation of the isthmus to the Federal Union, but to give up the Bay Islands as well; a notion altogether unfounded in any intimation which has hitherto reached me from the foreign office, and which could not be reconciled, in my opinion, to the interests of England.

Lord Napier adds that he was most careful to remark throughout that the opinions he enunciated with reference to the treaty were exclusively his own.

Mr. Blaine gives only a very short extract from Lord Malmesbury's dispatch in reply of the 8th April, 1858. It will be desirable to quote it more at length. Lord Malmesbury says:

Her Majesty's Government, if the initiative is still left to them by the unwillingness of the United States themselves to propose abrogation, desire to retain full liberty as to the manner and form in which any such proposal shall be laid on their behalf before the Cabinet at Washington; but without pronouncing any decided opinion at the present moment, I think it right to point out to your lordship that the effect of

such an article as that suggested in your dispatch, as the second, might be to perpetuate an entanglement with the Government of the United States, and to place that government in a position to question or control the free action of Her Majesty's Government in everything that relates to Central America. The Clayton-Bulwer treaty has been a source of unceasing embarrassment to this country, and Her Majesty's Government, if they should be so fortunate as to extricate themselves from the difficulties which have resulted from it, will not involve themselves, directly or indirectly, in any similar difficulties for the future.

Her Majesty's Government would have no objection to enter with the United States into a self-denying engagement such as that suggested in your first article, by which both parties should renounce all exclusive advantage in the use of any of the interoceanic routes, and should bind themselves, each to the other, not to interfere with free transit. Such an article would be a suitable substitute for the Clayton-Bulwer treaty, for it would secure, as regards the contracting parties, the avowed object of that treaty—the freedom of interoceanic communication.

But beyond this Her Majesty's Government, as at present advised, are not prepared to contract any engagement as a substitute for the Clayton-Bulwer treaty, and from the abrogation of that compact, if it should take place, they will hold themselves as free to act in regard to Central America in the manner most conducive to the advancement of British interests and the fulfillment of British obligations as if the treaty had never been concluded.

Your lordship was, therefore, perfectly right in using decided language such as that reported in your dispatch respecting the Bay Islands; and whenever the subject of the abrogation of the Clayton-Bulwer treaty is mooted in your presence, you will make it perfectly clear to the Government of the United States that to abrogate the treaty is to return to the *status quo ante* its conclusion in 1850; that Her Majesty's Government have no kind of jealousy respecting American colonization in Central America, which, indeed, it would help to civilize; and that we neither ask nor wish for any exclusive privileges whatever in those regions.

These, then, were the terms upon which Her Majesty's Government were alone prepared, if at all, to consider the abrogation of the Clayton-Bulwer treaty. And such an alternative was deprecated by General Cass in a note to Lord Napier of the 6th April, 1858, in which, while declining the proposal of arbitration on the disputed points of the treaty, he alluded to a personal expression of opinion he had given in favor of an unconditional renunciation of the treaty, and called attention to the serious consequences which might result from its dissolution, if no provision were made at the same time for adjusting the questions which led to it. He then concluded with the passage quoted by Mr. Blaine, to the effect that "if the President does not hasten to consider now the alternative of repealing the treaty of 1850, it is because he does not wish prematurely to anticipate the failure of Sir William Ouseley's mission, and is disposed to give a new proof to Her Majesty's Government of his sincere desire to preserve the amicable relations which now happily subsist between the two countries."

But subsequent events make it unnecessary to dwell further upon this part of the discussion, for the question was settled by the practical accomplishment of that which the United States Government regarded as the most satisfactory conclusion.

It is here that the extracts and account of the negotiation given by Mr. Blaine come to an end at a point when the most important episode commences. The continuation of the correspondence shows that on the 30th April, 1859, a treaty was concluded between Great Britain and Guatemala for the settlement of the question of the boundary of Belize; that on the 28th November, 1859, another treaty was concluded between this country and Honduras for the transfer of the Bay Islands to that republic, as well as for the settlement of other questions relating to the Mosquito Indians and the claims of British subjects, including the withdrawal of the British protectorate, and that on the 28th January, 1860, a third treaty was concluded between this country and Nicaragua, also with reference to the Mosquito Indians and the claims of British subjects.

Copies of these three treaties were officially communicated to the United States Government, with the expression of a hope on the part, of Her Majesty's Government that they would "finally set at rest the questions respecting the interpretation of the Clayton-Bulwer treaty which had been the subject of so much controversy between this country and the United States."

And in his message to Congress of the 3d December, 1860, President Buchanan says the dangerous questions arising from the Bulwer-Clayton treaty "have been amicably and honorably adjusted. The discordant constructions of the Clayton-Bulwer treaty between the two governments, which at different periods of the discussion bore a threatening aspect, have resulted *in a final settlement entirely satisfactory to this government.*"

I have been forced to give the above extracts at considerable length, and I refrain from adding other passages which would tend to illustrate and confirm them. A persual of them, however, will, I think, suffice to show—

1. That the differences which arose between the two governments in regard to the treaty, and which occasioned at one time considerable irritation, but which have long since been happily disposed of, did not relate to the general principles to be observed in regard to the means of interoceanic communication across the isthmus, but had their origin in a stipulation which Mr. Blaine still proposes in a great part to maintain. He wishes every part of the treaty in which Great Britain and the United States agree to make no acquisition of territory in Central America to remain in full force, while he desires to cancel those portions of the treaty which forbid the United States fortifying the canal, and holding the political control of it in conjunction with the country in which it is located.

2. That the declarations of the United States Government during the controversy were distinctly at variance with any such proposal as that just stated. They disclaimed any desire to obtain an exclusive or preferential control over the canal. Their sole contention was, that Great Britain was bound by the treaty to abandon those positions on the mainland or adjacent islands, which, in their opinion, were calculated to give her the means of such a control. Nor did they in any way seek to limit the application of the principles laid down in the treaty so as to exclude Colombian or Mexican territory, as Mr. Blaine now suggests, nor urge that such application would be inconsistent with the convention between the United States and New Granada of 1846. On the contrary, they were ready to give those principles their full extension.

3. That at a time when the British Government had been induced by the long continuance of the controversy to contemplate the abrogation of the treaty, they were only willing to do so on the condition of reverting to the *status quo ante* its conclusion in 1850; a solution which was at that time possible—though, as the United States Government justly pointed out, it would have been fraught with great danger to the good relations between the two countries—but which is now rendered impossible by the subsequent events.

4. That a better and more conciliatory conclusion, which for twenty years has remained undisputed, was effected by the independent and voluntary action of Great Britain. The points in dispute were practically conceded by this country, and the controversy terminated in a manner which was declared by President Buchanan to be amicable and

honorable, resulting in a final settlement entirely satisfactory to the Government of the United States.

You are authorized to read this dispatch to the United States Secretary of State, and to offer him a copy of it, if he should desire, in the same manner in which a copy of Mr. Blaine's dispatch was offered to me.

I have, &c.,

GRANVILLE.

The Hon. L. S. S. WEST.

No. 150.

Mr. Frelinghuysen to Mr. West.

DEPARTMENT OF STATE,
Washington, February 25, 1882.

Referring to the previous correspondence of this Department with your legation in reference to Indian incursions across the northwestern boundary line between this country and the Dominion of Canada, I now have the honor to inform you that, upon full consideration of the subject, this government has decided to instruct its military authorities near the boundary in question, to compel by force if necessary all our Indians to remain on this side of the line, with the expectation that the Dominion authorities will do the same with their dependent tribes.

To this end the military authorities on that border will be instructed to maintain the most friendly relations with the Dominion police force, and to give them prompt notice of any movement of any of the bands of Indians likely to cause trouble, expecting reciprocal information from the Dominion forces.

I have, &c.,

FRED'K T. FRELINGHUYSEN.

No. 151.

Mr. West to Mr. Frelinghuysen.

WASHINGTON, *March* 27, 1882. (Received March 28.)

SIR: Referring to the conversation which I had the honor of holding with you this day on the subject of protection to American citizens in Turkey, which it is proposed should be afforded by Her Majesty's consular officers, I have the honor to inclose to you herewith copy of a circular dispatch which has been addressed by Her Majesty's ambassador at Constantinople to Her Majesty's consular officers defining the grounds on which they are authorized to grant such protection.

I have, &c.,

L. S. SACKVILLE WEST.

[Inclosure.]

CIRCULAR.

CONSTANTINOPLE, *January* 30, 1882.

SIR: Her Majesty's Government have had under their consideration an appeal made by the United States minister at this court that the instructions to Her Majesty's consular officers in the Ottoman Empire in regard to the restriction of British consular

protection over foreign subjects might be so far modified as to enable citizens of the United States of America, in places where there is no United States representative, to continue in the enjoyment of such advantages as they obtained from the presence of a British consular officer previous to the issue of my circular of the 20th of August last. I am now requested by Earl Granville to inform you that although by the circular in question you were instructed to discourage as much as possible the granting of British protection to persons who were not British subjects you may still continue to extend your good offices in favor of foreign missionaries or any religious community who may solicit them in cases of unmerited violence and oppression by the local authorities, provided that no inconvenience has hitherto arisen from such action, and provided that your protection is not carried further than if the case were that of a British subject. You are accordingly authorized to continue to give such friendly assistance and support to American citizens as you were in the habit of giving previous to the issue of the circular referred to.

I am, &c.,

DUFFERIN.

No. 152.

Mr. Frelinghuysen to Mr. West.

DEPARTMENT OF STATE,
Washington, March 29, 1882.

The situation along the northwestern frontier has of late assumed such an aspect as to constrain me to again urge through your legation upon the British authorities the need of a distinct and prompt understanding in the premises.

The Secretary of War reports to me that some twelve hundred British Indians are on the American side of the frontier, along Rock Creek and Milk River, in the reservation of the Fort Peck Agency, in Montana Territory, and are robbing the American Indians of their winter supplies of meat, besides affording a rendezvous for illicit traffic across the frontier. In view of these depredations and the intolerable state of things thereby occasioned, the general commanding in the Northwest recommends urgently that the camps of the intruding Indians be broken up and their occupants driven across the line. This recommendation is concurred in by the Secretary of the Interior and by the Commissioner of Indian Affairs.

On the 25th ultimo I had the honor to inform you that the authorities of the United States would be instructed to compel all our Indians to remain on this side of the line, with the expectation that the Dominion authorities would do the same with their independent tribes, and I added that, to assist in encompassing this end, the United States forces on the border would be directed to give to the Dominion police prompt notice of any movements of Indians which might seem likely to occasion trouble, and that reciprocal information would be expected from the Dominion authorities. I am as yet without any intimation that the reciprocal course thus proposed is acceptable to the Dominion Government or that it is prepared to respond to the action which our own forces have been ordered to take in the interest of the mutual preservation of peace along the border.

The presence of so large a body of alien Indians depredating on the reservations of our own Indians seems, however, to render necessary some more immediately active remedy, and I am constrained to recommend to the President that the suggestion of General Terry be adopted, and that the military authorities of the United States in Montana be instructed to remove the intruding Indians by force, breaking up their camps and sending them across the frontier. Before taking such a

course, which necessarily involves the destruction of what belongs to the intruders and the use of force to tribes not subject to the jurisdiction of the United States, it seems but proper that I should bring the matter to your attention in order to learn whether the Dominion authorities are prepared for their part to receive and maintain their own Indians and to use such measures of police surveillance, and force, if need be, to prevent their again marauding upon the territory of the United States, or, if their forays cannot be prevented, then to give to our military forces on the frontier such information of the actual or apprehended movements of the Dominion Indians as may enable them to be successfully repelled by our own authorities should they again seek to cross the border.

I confess that I am reluctant to counsel the President to adopt a measure which would have the appearance of a harsh use of force toward alien tribes, but in the absence of a practical system of co-operation whereby the forces on either side of the line may effectively maintain their respective Indians and restrain their predatory forays, I do not see any remedy for these destructive raids but the removal of the intruders from the territory of the United States.

I have, &c.,

FRED'K T. FRELINGHUYSEN.

No. 153.

Mr. West to Mr. Frelinghuysen.

WASHINGTON, *April* 5, 1882. (Received April 6.)

SIR: With reference to your note of the 29th ultimo, and to previous correspondence, respecting the incursions of Indians on the northwest frontier, I have the honor to inform you that I have received a telegram from the Marquis of Lorne, stating that Canada will endeavor to prevent her Indians from crossing the border and expects the United States Government to do likewise; that every information will be given to the United States authorities of Indian movements, and that the police force of the Dominion of Canada will afford all assistance.

I have now the honor to call your attention to the report of the Privy Council of Canada forwarded to the State Department in a note from this legation, dated September 26, 1881, from which report you will perceive that the Dominion Government gladly assents to restrain Indians of either country from crossing the frontier, and to this end refers to the course pointed out in the minute of council of the 3d of June last, copy of which was forwarded to your Department in a note under date of the 6th of that month, namely, that concerted action should be had between the two governments. The report of the 16th of September goes on to say that no answer to this suggestion has been received from the United States Government, and that the Canadian Government will most willingly consider any plan which may be suggested to them. I have further the honor to remark to you with reference to the concluding paragraph of your above-mentioned note of the 29th ultimo, that the Government of the Dominion can scarcely be now held responsible for the absence of a practical system of co-operation whereby the forces on either side of the line may effectively maintain their respective Indians and restrain their predatory forays.

I have, &c.,

L. S. SACKVILLE WEST.

No. 154.

Lord Granville to Mr. West.

FOREIGN OFFICE, *April* 6, 1882.

SIR: With reference to my dispatch No. 86, of the 31st ultimo, I have now to inform you that Her Majesty's Government have carefully considered the representations that have been made to them by Mr. Lowell, on the part of the Government of the United States, concerning the arrest and imprisonment of certain American citizens in Ireland, and the hope expressed by the President that the American citizens so detained may be brought to an early trial.

The persons at present detained in prison in Ireland under the provisions of the protection of person and property act of 1881 have been, and are, all of them, either ordinarily resident in Ireland or persons who have visited Ireland under the present circumstances of that country, and to whom full knowledge of those circumstances, and of the laws passed in the last session of Parliament to arm the government there with extraordinary powers, must be imputed.

In the use of these extraordinary powers, for the purpose of preventing incentives to outrage and crime, and breaches of public order in Ireland, no general distinction can be made between those persons, for the time being in Ireland, who may have come there from the United States or any other foreign countries in which they may have rights of citizenship, and others; nor have Her Majesty's Government generally any means of knowing whether such persons are native Irishmen who have not renounced their British nationality, or Irish emigrants who may have obtained rights of citizenship in the United States or elsewhere.

The statute of last session under which these prisoners are detained was passed (like all other acts for the suspension of the *habeas corpus*, whether in England or in the United States) under circumstances of exceptional political necessity, for the express purpose of superseding and dispensing with trial; and the reference, in the first clause of the act, to the authority of the lord lieutenant of Ireland was not for the purpose of enabling him to direct a trial (which could only take place upon a charge regularly made in the ordinary course of law), but for the contrary purpose.

The British legislature, in passing that act, declared the necessity of such a suspension of trial under certain circumstances. This necessity applies, within those conditions, alike to aliens and to British subjects in Ireland; and Her Majesty's Government are compelled to consider that the necessity which led to the passing of the act still subsists.

It is impossible either for Her Majesty's Government or for the Government of the United States to be ignorant that the present disorders in Ireland have been, and are still, to a great extent fomented by Irish emigrants in the United States, and by subscriptions of money and publications hostile to British rule proceeding from that source. As you are aware, Her Majesty's Government found it necessary last year to address a friendly representation on this subject to the Government of the United States, and Her Majesty's Government cannot doubt that the President and his ministers must be desirous of discouraging all such proceedings to the best of their power. Under such circumstances, it is obvious that the efforts of Her Majesty's Government and of the British Parliament for the vindication of law and the restoration of order in Ireland would be liable to be frustrated if aliens in Ireland

(whatsoever nationality they might claim) were in any respect treated as exempt from the operation of laws which Parliament has found it necessary to enact for that purpose, or from the extraordinary powers conferred upon the executive government of Ireland by those laws.

The principle that in such cases no distinction can be made in favor of aliens was maintained by the Government of the United States on the suspension of the *habeas corpus* act in the Northern States during the civil war. On that occasion, complaints having been made of arbitrary and illegal arrests of certain British subjects, Mr. Seward, in a note dated the 14th October, 1861, to Lord Lyons, then Her Majesty's minister at Washington, after vindicating the legality of the proceedings complained of, expressed himself as follows:

> In every case subjects of Her Majesty residing in the United States, and under their protection, are treated during the present troubles in the same manner, and with no greater or less rigor, than American citizens.

Subsequently, in 1866, when the *habeas corpus* act was suspended in Ireland, a correspondence took place between the two governments as to the right of Irish-born naturalized citizens of America then sojourning in Ireland to American protection. That particular question has since been disposed of by the naturalization act, 1870, whereby British subjects becoming voluntarily naturalized in a foreign state forfeit their British nationality. But the following extract from a dispatch, dated the 10th March, 1866, addressed by Mr. Seward to Mr. Adams, then minister of the United States in London, and published in the diplomatic correspondence presented to Congress with the President's message for that year, deserves particular notice, as the instructions to the United States minister, which it contains, entirely accord with the views of Her Majesty's Government in relation to the treatment of American citizens during the present troubles in Ireland.

In those instructions Mr. Seward used the following language:

> It may be expected that some of our Irish-born naturalized citizens who are now sojourning or traveling in Ireland will be arrested upon complaints of complicity in seditious proceedings. It may also be expected that some who will be thus accused will be innocent, while others will be guilty. The situation will, for a time, necessarily become inconvenient and embarrassing. I know of no way in which you can meet it more properly than by pursuing the course which you have indicated.
>
> Americans, whether native-born or naturalized, owe submission to the same laws in Great Britain as British subjects while residing there and enjoying the protection of that government. We applied the converse of this principle to British subjects who were sojourning or traveling in the United States during the late rebellion.

In a further dispatch, dated the 9th June, 1866, Mr. Seward instructed Mr. Adams:

> To suggest to Lord Clarendon the expediency of the exercise of clemency to the extent at least of releasing all of the American citizens, native or naturalized, who are in confinement, upon the condition of their returning to the United States.

As no difference of opinion would appear to exist with respect to the principle so clearly enunciated in the extracts above cited, Her Majesty's Government are in some doubt as to whether they have correctly apprehended the grounds on which the Government of the United States found their present representations in favor of those American citizens in Ireland who have brought themselves under the operation of the protection of person and property act, and it is unnecessary to pursue the subject further at present.

I only desire to add that the imprisonment of suspects under the act is not a measure of punishment, but of prevention. The Irish Government have in many instances released prisoners upon a reasonable belief that it could be done without risk to the public safety, and I need

hardly say that Her Majesty's Government are not desirous of detaining unnecessarily in prison any persons from whom no danger to the public peace is to be apprehended.

They will therefore be prepared to consider the circumstances of any citizens of the United States now detained who may be willing to engage forthwith to leave the United Kingdom.

I have to instruct you to read this dispatch to Mr. Frelinghuysen, and to leave a copy of it with him if he should so desire.

I am, &c.,

GRANVILLE.

No. 155.

Mr. Frelinghuysen to Mr. West.

DEPARTMENT OF STATE,
Washington, April 7, 1882.

I have the honor to acknowledge the receipt of your note of the 5th instant, relative to the reciprocal treatment of the migratory frontier Indians by the United States and Canadian authorities. Copies of it have been sent to the Secretaries of War and the Interior for their information and the suggestion of any plan of concurrent operations on the border which they may deem proper to be submitted to the Canadian Government with a view to the adoption by them of analogous or responsive plans. From the good disposition which your note shows, I trust that we may be soon able to come to a complete and satisfactory agreement.

Meanwhile I await with interest the reply to my suggestion of the 29th ultimo that the military authorities on the frontier be immediately ordered to break up the camps of the intruders and conduct them to the border. If the Canadian Government is prepared to receive and maintain so large a body of its own Indians the order will be given at once. I have to request that you will use the telegraph to aid in speedy conclusion.

I have, &c.,

FRED'K T. FRELINGHUYSEN.

No. 156.

Mr. Frelinghuysen to Mr. West.

DEPARTMENT OF STATE,
Washington, April 10, 1882.

Referring to our recent correspondence, touching the condition of affairs in the Indian country near the Canadian frontier, I have the honor to inform you that my colleague, the Secretary of War, has just learned that, in consequence of the movements of the United States military forces, the Canadian half-breeds and Crees have recrossed the line into Canadian territory. Besides escorting a number of lodges of American Indians back to their own reservations, the troops had sent a large body of British Indians across the frontier and burned their lodges.

I have, &c.,

FRED'K T. FRELINGHUYSEN.

No. 157.

Mr. West to Mr. Frelinghuysen.

WASHINGTON, *May* 3, 1882. (Received May 5.)

SIR: With reference to previous correspondence upon the subject of the alleged forays of British Indians on American territory, I have the honor to transmit to you herewith a copy of an approved minute of the Privy Council of Canada embodying a report by the Right Honorable Sir J. A. Macdonald, premier of the Dominion, to which is appended a report by Lieutenant-Governor Dewdney, Indian Commissioner for the northwest territories, on the subject.

In transmitting this document I would beg to call your attention to the proposed system of "permits," which is submitted to the consideration of the United States Government.

I have, &c.,

L. S. SACKVILLE WEST.

[Inclosure 1.]

Report of a committee of the Privy Council for Canada, approved by the Governor-General on the 24th day of April, 1882.

The committee of Council have had under consideration a dispatch, dated March 31, 1882, from Her Majesty's minister at Washington, Mr. Sackville West, inclosing communications from Mr. Frelinghuysen, the Secretary of State for the United States, together with a memorandum from his excellency the Governor-General upon this dispatch, adverting to previous correspondence on the subject of alleged incursions of British Indians into United States territory.

The Right Hon. Sir John Macdonald, the first minister, to whom the said dispatch with inclosures and his excellency's memorandum were referred, reports that, previous to the transfer to Canada of the Northwest Territories by the Hudson's Bay Company, the Indians of that country on both sides of the line were allowed to roam at will in pursuit of buffalo. In fact, the international boundary might be considered unknown to the aborigines. Indians of the same tribe, race, and lineage lived on both sides of the line, and were as one people.

That since the acquisition of the country by Canada every exertion has been made by the Canadian Government to induce the British Indians to abandon their nomadic habits, and settle down on reservations provided for them.

That considerable success has attended those efforts in the most northerly portion of the Canadian territories, but it has been impossible to attain any marked progress with the Indians near the international boundary, owing to the presence in Canadian territory, until recently, of several thousand United States Indians.

That those Indians having now returned to the United States, your excellency is aware that the policy of urgently pressing our Indians to leave the frontier and settle on reserves provided for them, well in the interior, is being pursued with increased vigor, and with good hopes of success. It cannot, however, be expected that the Indians will be induced, by the efforts of one season, to abandon altogether what they consider their traditional rights.

That in the cases of the Blackfeet and Assiniboine tribes, allied by blood to each other, who are settled by treaty, both by the United States and Canadian Governments, near to each other, it is not reasonable to demand that these people should not visit each other; but regulations may be introduced to allow this, while any proved depredation committed by individuals may be punished.

That it is believed that no military force, however strong, will prevent occasional raids from either side, as is shown by repeated horse and cattle stealing expeditions from the United States to Canadian territory.

That the suggestion made by your excellency that individual permits be granted by the authorities of both nations to their respective Indians who may wish to cross the border for the purposes of hunting and visiting relations, would, if adopted, place in the hands of the officials of the two countries the means of satisfying all reasonable demands of Indians of the various tribes who have intermarried or may desire to hunt together. A short personal description on the permit of the Indian bearing it would prevent a transfer of it to any Indian having no right to carry the permit.

That should the United States Government concur in your excellency's suggestion, he, Sir John Macdonald, recommends the adoption of a form of permit, and instruction as to the issues of the same, which will be applicable to the officials of either country, and insure uniformity of action by them. On this subject a report from the honorable E. Dewdney, lieutenant-governor and Indian commissioner of the Northwest Territories, is hereto annexed. Neither government should be held responsible for any wrongful act of an Indian holding a permit, but he should be held personally responsible, and be as severely punished as the law will allow, and forfeit forever afterwards all claim to a renewal of his permit.

That in submitting the above for your excellency's approval, he, the first minister, states that it is the earnest wish of the Canadian Government to prevent depredations by Canadian Indians on United States territory, and at the same time to express their appreciation of the friendly desire of the Government of the United States to act in regard to their Indians for the same end, and it is confidently hoped that a thorough understanding between the officers on either side will facilitate the adoption of an arrangement which will regulate what cannot be prevented, viz, the occasional movement of Indians across the line.

Your excellency's telegraphic dispatch to Her Majesty's minister, of the 4th of April instant, fully expresses the intention of the Dominion Government to aid in the prevention of incursions and to give every information as to the southward movements of our Indians.

Sir John Macdonald suggests that some arrangement should be made between Her Majesty's Government and the United States Government by which Indians on either side should, on complaint under oath charging them with felonies or serious outrages against property, be arrested and surrendered for trial in the country where the offenses may have been committed, notwithstanding that such offenses may not come within the terms of existing extradition treaties. This can, of course, only be done by negotiations between the two governments, as Canada has no power to act in the matter.

Sir John Macdonald further suggests that the Government of the United States should be informed that by the statute of Canada, 32, 33 Victoria, cap. 21, section 112, there is the following provision:

"If any person brings into Canada, or has in his possession therein any property stolen, embezzled, converted or obtained by fraud or false pretenses in any other country in such manner that the stealing, embezzling, converting, or obtaining it in like manner in Canada would by the laws of Canada be a felony or a misdemeanor, then the bringing such property into Canada or the having it in possession therein, knowing it to have been so stolen, embezzled, or converted or unlawfully obtained, shall be an offense of the same nature and punishable in like manner as if the stealing, embezzling, converting, or unlawfully obtaining such property had taken place in Canada, and such a person may be tried and convicted in any district or place in Canada into or in which he brings such property or has it in possession."

That under this clause any Indian stealing cattle or other property in the United States can be tried for the offense as if the crime had taken place within the Dominion of Canada. If a similar law obtains in the United States territories, the enforcement of its provisions would seem to afford an efficient check on the system of raids prevailing along the border.

The committee concur in the report of the right honorable the first minister, and advise that a copy of this minute, when approved, be transmitted to Her Majesty's minister at Washington.

JOHN McGEE,
Acting Clerk Privy Council, Canada.

[Inclosure 2.]

Mr. Dewdney to the Superintendent-General of Indian Affairs.

OFFICE OF THE COMMISSIONER OF INDIAN AFFAIRS,
NORTHWEST TERRITORIES,
Ottawa, March 27, 1882.

SIR: I have considered the dispatch and the accompanying papers forwarded to me in your letter of the 20th of March, No. 28748, relative to the incursion of Canadian Indians into the United States and American Indians into Canadian territory.

I feel very confident that for the future our Indians will not cross the boundary in anything like the number they have hitherto done, and had not the American traders on the Missouri River held out inducements to our chiefs to come south, very few could have done so this winter.

The suggestion made by his excellency the Governor-General to grant permits to Indians who wish to cross the border would, I think, answer well in treaty No. 7.

Previous to the establishing of the international boundary, the Piegan, Blood, and Blackfeet Indians occupied the country of Northwestern Montana in United States territory and Fort McLeod in Canadian territory.

The Indians living north and south of the boundary are intermarried and are continually visiting each other. It would be considered a great hardship were we to forbid them continuing their visits.

It has come to my knowledge that the south Piegans have invited our Indians to join them in the hunt, both in the fall of 1881 and 1882, and as the United States Piegans obtain permission from the Indian agent to leave their reserves, I should not think the American authorities would object to our Indians joining them for the same purpose, or to their visiting their friends, provided they were furnished with a permit from the person authorized to issue such on this side. This system would answer for the Assiniboines, who also have relations living south of the line.

With the Crees it is different. The only object they can have for going south is to hunt or steal horses, and, with buffalo so scarce, I think there would be no object in giving them permits.

I think if an arrangement could be made with the United States Government in the direction suggested by his excellency the Governor-General, and the Indians were formally notified of it, it would assist us in inducing a large number of Crees to go north, as they would have to understand that any found in United States territory without the required permission would be arrested.

At any rate I think it would be more advisable to endeavor to bring about an arrangement of this nature with the American Government than to assent to the proposition made by the minister at Washington, through Mr. L. S. Sackville West, to his excellency the Governor-General, which I am convinced is impracticable.

E. DEWDNEY,
Indian Commissioner.

No. 158.

Mr. West to Mr. Frelinghuysen.

[Note verbale.]

WASHINGTON, *June* 1, 1882.

With reference to correspondence which has passed between Her Majesty's legation and the United States Government with regard to alleged killing of cattle and stealing of horses belonging to inhabitants of the United States, by Canadian Indians, the following extract from the annual report of the Indian commissioner for the Northwest Territories appears to place that matter in what is probably its true light:

In 1879 a large number of Blackfeet and Bloods went south to hunt buffalo. Most of these remained in American territory until the summer. Prior to their leaving they had been living on the buffalo, and were still in a wild, uncivilized state. They had realized the beneficial results of the advent of the mountain police and the stamping out of the whisky traffic, and had we been in a position at that time to have kept them on the reserves, I am sure (says the commissioner) they would have been much more contented than they are; but, understanding the position they were in, and that the Sioux were keeping the buffalo from them, they had no alternative but to strike out for the south, where they had been informed they could get meat, and, at the same time, robes for clothing and leather.

While on the American side they had a good hunt, and had the whisky traders been kept away from them they might have returned in better circumstances than when they left. As it was they were followed by the lowest class of thieves and whisky traders, who, in exchange for robes, supplied the Indians with horses, then made them drunk, and drove the horses off. It was when on foot that they commenced stealing from each other, from the American Indians, and, to some extent, from the whites.

Complaints were made to the Government of Washington that British Indians were killing cattle, and there was some excitement among the cattle-men.

I think it is likely that while on their horse-stealing expedition a few cattle might have been killed by our Indians, but from information received on the Missouri River, I am satisfied that the loss sustained by the cattle-men was not as large as was represented, and that the severe weather had more to do with it than had the Indians. Although our Indians got the credit of killing all that was missing, it is well known

that the American Indians committed the bulk of the depredations. Our Indians are in this position. The Indian traders on the Missouri hold out great inducements to them to go south and hunt, and to this end fee the chiefs, while the United States Government instruct the military to drive them back should they come south across the boundary.

It is hoped that under these circumstances the United States Government will take into serious consideration the expediency of adopting in concert with the Dominion Government measures based upon the suggestions of the Marquis of Lorne for preventing Indian raids, and which were communicated to the Department of State in the note of the 4th ultimo.

No. 159.

Mr. Frelinghuysen to Mr. West.

DEPARTMENT OF STATE,
Washington, June 13, 1882.

Acknowledging the receipt of your note of the 27th of March last, communicating to me a copy of a dispatch which has been addressed by Her Majesty's ambassador at Constantinople to British consular officers, defining the grounds on which they are authorized to grant protection to American citizens, I beg to convey to you an expression of the pleasure with which the President has learned of the generous action of Her Majesty's Government on behalf of American citizens in the Ottoman Empire.

I have, &c.,

FRED'K T. FRELINGHUYSEN.

No. 160.

Mr. Frelinghuysen to Mr. West.

DEPARTMENT OF STATE,
Washington, June 15, 1882.

With reference to previous correspondence in relation to raids and thefts committed in Montana Territory by Canadian Indians and half-breeds, I have the honor to inform you that I have received through my colleague the Secretary of War the following extract from a report of the Lieutenant-General of the Army, dated the 16th ultimo, viz:

The Canadian Indians and half-breeds who have been for some time trespassing upon our territory have all been driven across the border. None remain on this side of the line.

Big Bear, a Cree chief who was for some time south of the Missouri, has also returned to British territory.

I have, &c.,

FRED'K T. FRELINGHUYSEN.

No. 161.

Mr. Frelinghuysen to Mr. West.

DEPARTMENT OF STATE,
Washington, June 19, 1882.

Referring to previous correspondence in relation to the incursions of Canadian Indians into the territory of this country, I now have the honor to inform you that, having received intelligence to the effect that Big Bear, with five hundred lodges of Cree Indians, intends to cross the border into Montana Territory during the present month for the purpose of hunting, the President has instructed the proper officer to warn "Big Bear," in that event, to return to Canada, and, if he shall disregard the warning, to take the necessary military measures to enforce his return.

I have, &c.,

FRED'K T. FRELINGHUYSEN.

No. 162.

Mr. West to Mr. Frelinghuysen.

WASHINGTON, *July* 14, 1882. (Received July 15.)

SIR: Referring to my note of the 4th of May last, submitting the suggestions of the Government of the Dominion of Canada for the prevention of Indian raids on the northwest frontier, I have the honor to inform you that, in view of the importance which is attached by both governments to this matter, Her Majesty's Government is desirous of ascertaining the views of the United States Government on the proposals of the Canadian Government.

I have, &c.,

L. S. SACKVILLE WEST.

No. 163.

Mr. Davis to Mr. West.

DEPARTMENT OF STATE,
Washington, August 14, 1882.

With reference to previous correspondence in regard to the incursions of Canadian Indians into this country, and particularly to those portions of your notes of the 3d of May, 1882, and of the 1st of June last, in relation to the alleged improper conduct of American traders in enticing Canadian Indians across the boundary for the purpose of trading with them, and in selling them whisky so that they might be robbed while drunk, I now have the honor to inform you that this government having, upon investigation, discovered that there was some foundation for the complaints in question in the practice of the traders at two American Indian agencies, measures were at once adopted to remedy the evil; and the Secretary of the Interior has accordingly notified all licensed traders at Indian agencies that they must confine their trade to the Indians named in their bonds and licenses, and at once cease all

trade with Canadian Indians and half-breeds, and that the license of any trader violating this rule will be promptly revoked.

I have, &c.,

JOHN DAVIS,
Acting Secretary.

No. 164.

Mr. West to Mr. Frelinghuysen.

WASHINGTON, *September* 17, 1882.

SIR: I have the honor to inform you that I am instructed by Earl Granville to express to the Government of the United States the appreciation of Her Majesty's Government of the friendly feeling which induced the Admiral of the American squadron to afford such timely assistance to the British sailors and marines as effectually contributed to the preservation of life and property in Alexandria after the withdrawal of the rebel Egyptian troops under Arabi Pacha on the 12th of July last, and when that city was in the hands of pillagers and incendiaries.

I have, &c.,

L. S. SACKVILLE WEST.

No. 165.

Mr. Frelinghuysen to Mr. West.

DEPARTMENT OF STATE,
Washington, September 22, 1882.

SIR: Acknowledging the receipt of your note of the 17th instant, conveying to this Department an expression of the appreciation by Her Majesty's Government of the friendly feeling which induced the admiral of the American squadron to assist the British sailors and marines in preserving life and property in Alexandria on the 12th of July last, after the withdrawal of the Egyptian troops under Arabi Pasha, I have the honor to inform you that I have taken pleasure in communicating the contents of your note to my colleague, the Secretary of the Navy.

I have, &c.,

FRED'K T. FRELINGHUYSEN.

No. 166.

Mr. West to Mr. Frelinghuysen.

WASHINGTON, *October* 5, 1882. (Received October 6.)

SIR: Referring to your note of the 14th of August last, I have the honor to inform you that I am instructed by Earl Granville to express to you the thanks of Her Majesty's Government for the measures taken by the United States Government for preventing the sale of whisky by American traders to Canadian Indians and half-breeds on the north-west frontier, and for the friendly action taken in this matter by the United States authorities.

I have, &c.,

L. S. SACKVILLE WEST.

GUATEMALA.

CORRESPONDENCE WITH THE LEGATION OF GUATEMALA AT WASHINGTON.

No. 167.

Mr. Frelinghuysen to Señor Montúfar.

DEPARTMENT OF STATE,
Washington, June 5, 1882.

SIR: Referring to your several communications respecting the differences between Guatemala and Mexico, I have now the honor to state for your information the position of the question so far as the United States have taken part in it.

On the 15th of June last, Mr. Ubico informed Mr. Blaine, that all peaceful measures of conciliation appeared to be exhausted, and appealed on behalf of his government to the United States, as the natural protector of the Central American territory. Thereupon Mr. Blaine, on the 16th of June, instructed Mr. Morgan, the minister of the United States in Mexico, to offer to Mexico the good offices of the United States, and informed Mr. Ubico that he had done so.

Mr. Morgan complied with this instruction, and made a formal tender of the good offices of the United States as mediator.

Subsequently Mr. Morgan, without further instructions from this Department, but with its acquiescence and in full accord with the suggestions, written and verbal, of the minister for Guatemala, proposed verbally to Mr. Mariscal that the differences between Guatemala and Mexico should be submitted to the decision of the President of the United States as arbitrator.

Mr. Morgan's course in this respect was approved, and he was further instructed by Mr. Blaine as follows, on the 28th November last:

> If the Government of Mexico should be disposed to accept an arbitration, limited in its point of settlement, as Mr. Herrera, the Guatemalan minister, indicated would be acceptable to his government, you will ask the assurance of the Mexican Government that, pending the discussion necessary to perfect such an arrangement, all hostile demonstrations should be avoided, and, if possible, that the Mexican troops should be withdrawn from the immediate vicinity of the disputed boundary. But this latter request you will not insist upon if it should be an obstacle to obtaining the consent of Mexico to a limited arbitration.
>
> Should the Mexican Government, however, decide that it was not consistent with its views to accept a friendly intervention in the differences between itself and Guatemala, you will inform the secretary for foreign affairs that you accept this decision as undoubtedly within the right of Mexico to make. You will express the very deep and sincere regret which this government will feel if it shall find the powerful Republic of Mexico unwilling to join the Government of the United States in maintaining, and establishing the principle of friendly arbitration for international differences on the continent of America. Mexico and the United States, acting in cordial harmony, can induce all the other independent governments of North and South America to aid in fixing this policy of peace for all the future disputes between the nations of the western hemisphere. And it would be a marked and impressive precedent, if, in a dispute with a weaker neighbor, Mexico should frankly consent to a friendly arbitration of all existing differences.

On the 31st day of December last, Mr. Morgan under further instructions made a formal tender to the Mexican Government of the good

offices of the President of the United States, and of his services as arbitrator, in the following language:

In obedience, therefore, to the instructions contained in the dispatch which I have just read to you, I formally suggest to the Mexican Government, through your excellency—

1. That all the differences now unhappily existing between Mexico and Guatemala be submitted to arbitration.

2. That pending this arbitration the troops of Mexico be withdrawn from the immediate neighborhood of the Guatemalan frontier.

3. I inform you that the President of the United States is willing to accept the position of arbitrator between the two governments.

4. I respectfully ask an early decision of your excellency's government upon these suggestions.

On the 20th of March last Mr. Mariscal communicated to Mr. Morgan the answer of the Mexican Government, in language of which I inclose a copy in the Spanish text, and of which the following is a translation:

Coming down to the propositions which you submitted to me, I have been instructed by the President to answer in the following terms:

As respects the first, I must observe that the principal controversy which has excited Guatemala is the one which relates to the right by which Mexico holds the State of Chiapas, as one of the members of the Federal Union, including the territory of Soconusco, which forms a part thereof, but, as has been explained on a former occasion, the Mexican Government finds itself in the absolute impossibility of discussing or of submitting the rights of the nation to this portion of her territory to any judgment. For the same reason it is not possible to submit all the differences which exist between the two governments to arbitration, as you propose should be done. Besides, if the Guatemalan Government will agree to expressly exclude the one which relates to Chiapas and Soconusco, the Mexican Government will not find it inconvenient to submit to a determinate arbitration, which would be limited to the question of boundary, which then surged between the two countries.

I say "which then surged," because the pretensions of Guatemala upon the whole or a portion of that Mexican State frankly eliminated (from the discussion?), the questions which have scarcely been mentioned with reference to the boundary of Soconusco would be from that time easily arranged, without the necessity of appealing to an arbitrator.

The aforesaid pretensions of acquiring in whole or in part the territory to which I refer, or of obtaining a compensation therefor, whether the same has been expressly stipulated, or whether in a disguised form, has been, and is, the only difficulty between the two governments. If it should disappear by reason of a sensible abandonment, which the Guatemalan Government would make of such unfounded aspirations, there would probably be no necessity for an arbitration to decide any point of difference upon the question of boundary (between the two countries), besides removing the great reason for disagreement which up to now has divided us.

The second proposition, to the effect that the Mexican forces be withdrawn from the frontier, pending the arbitration, cannot be decided upon at the present moment; to maintain our forces upon our territory, and near the line provisionally recognized by Guatemala, will depend upon the circumstances arising during the arbitration, if an arbitrator be agreed upon, or even if an agreement should be concluded to arbitrate.

The object of maintaining a personal force on the frontier alluded to, whose numbers are far from alarming, is to prevent the incursions of armed Guatemalans, from which our frontier population has suffered, because of the absence ordinarily of a Mexican soldier there. This government has never in any way pretended to menace Guatemala with an invasion with these troops, and no one has thought of such a thing.

Your third proposition consists in the formal offer that the President of the United States shall be the arbitrator between the two Governments of Mexico and Guatemala.

Within the limitations expressed, that is to say, not including in the arbitration the right which Mexico has to the whole of the territory which to day comprises the State of Chiapas, the Government of Mexico is disposed to admit and will admit with pleasure the arbitration of the President of the United States, for the purpose of deciding any question which may require the employment of such a method and which is susceptible of being decided by it in determining the boundary of both nations.

Notwithstanding, we cannot at the present time know if any such questions will arise, as this question has not up to date been discussed by Guatemala, except one which relates to its boundary with our country, and this always under the precautions and from the second point of view which has been above referred to.

I informed you of this proposition verbally. Since communicating it to you I learn through several notes from you, and more especially

your notes of the 2d and the 28th of May last, that direct negotiations for arbitration are taking place between you and Mr. Romero. In your note of the 2d you communicated to me for my information a proposition from Mr. Romero to you to submit the question of boundary to the arbitration of the President of the United States, and your proposed amendment of the second article. In your note of the 28th you inform me that there is a probability that the proposal of Mr. Romero will be withdrawn and that war will ensue.

In reply I am instructed by the President to say that he would see a state of war on the continent of North America between two republics of common origin and language with profound solicitude and regret. No reasonable efforts on the part of this government as a neutral friend to both will be spared to prevent it.

It appears that the draft for a convention submitted to you by Mr. Romero contained ten articles, and that you accepted all except the second article. You proposed to substitute your own draft for Article 2. The difference between you and Mr. Romero is, then, reduced to this article, and appears to be as follows:

Mr. Romero's Draft.	Mr. Montúfar's Draft.
2d. Presidente de los Estados Unidos designará les limites entre el Estado de Chiapas parte integrante de la Confederacion Mexicana y la Republica de Guatemala.	2d. El Presidente de los Estados Unidos designará la linea entre Chiapas y Guatemala.

I thought it my duty informally and unofficially to endeavor to ascertain the causes of the difference. I am told by Mr. Romero that Mexico has for years regarded, and still regards, the State of Chiapas as an integral part of the Federal Republic of Mexico, in the same sense as the State of New York is an integral part of this republic, and that he cannot give his assent to any scheme of arbitration which does not exclude the idea of submitting that question to arbitration. He adds that he has so informed you; that he told you that in laying the *projet* before you he did it without authority from his government, but that he thinks it will be acquiesced in by his government, if accepted by yours.

The interest which the President takes in the prosperity of Guatemala and the confidence reposed by you and your government in the United States must be my excuse for these unauthorized inquiries of Mr. Romero.

While offering this personal explanation, I beg leave to renew the official assurance that the President will gladly lend his good offices to bring about a solution of this unfortunate question if a basis can be found that is acceptable to both Guatemala and Mexico.

Accept, &c.,

FRED'K T. FRELINGHUYSEN.

No. 168.

Señor Montúfar to Mr. Frelinghuysen.

[Translation.]

LEGATION OF GUATEMALA,
Washington, June 15, 1882. (Received June 15.)

SIR: The communication of your excellency of the 5th instant, which I had the honor to receive in New York, deserves my highest attention and respect.

In it your excellency presents to me a parallel between the proposition designated by Señor Romero as No. 2 and that which I present in substitution.

Your excellency tells me that Señor Romero considers that Chiapas, as a State, belongs to Mexico in like manner as New York belongs to the United States.

Señor Romero will permit me to answer in this manner:

New York was one of the thirteen colonies which became independent of England, and no nation in the world has ever alleged that she does not belong to the United States.

Chiapas belonged to Guatemala for three hundred years.

In the year 1824 she was declared a part of the Mexican Republic in virtue of an illegal plebiscite, inasmuch as the votes were not taken before two commissioners, one of Mexico and the other of Guatemala, as was agreed upon, but only before the commissioner of Mexico, a Mexican force being at the time imposed on the frontier.

Soconusco belonged to Guatemala.

A treaty between Mexico and Guatemala arranged, in 1829, that neither the forces of Mexico nor of Guatemala shall enter Soconusco until a treaty touching boundaries shall decide the questions.

In the year 1842 the Mexican General Santa Anna, breaking that treaty, entered Soconusco and annexed it to Mexico.

Here is the title by which Mexico possesses Socunusco.

Very different is the title by which the United States holds the State of New York.

After the outrage of Santa Anna, Mexico declared that Chiapas and Soconusco should form a State of the Federation, and therefore does not desire that it shall be submitted to arbitration to ascertain the right or title by which the Mexicans possess Soconusco.

This is to sanction the law of conquest.

Nothing is easier to a nation relatively strong than to take territory from one that is weak; and nothing is more easy, after such territory has been taken, than to say in a law that that territory constitutes part of the nation which has taken it, and consequently not to reduce the question to arbitration.

The theories of Mexico are essentially doctrines which sanctify in the New World the law of force and the law of conquest.

Nevertheless, it is necessary to terminate this disagreeable and mournful question, and nothing will be more gratifying to Guatemala than to terminate it under the influence of a mediator of a common friend—the United States.

Would that the arbitration be not limited to this line, but lay down the entire divisional line between the Mexican States and the Republic of Guatemala, even although for this location two or three years more would be necessary.

In November I had the honor to say to Mr. Blaine, and afterwards I had the honor to repeat to your excellency, that Guatemala places the matter in the hands of the Government of the United States. In this view your excellency may dictate the bases of the arbitration.

Please settle with Señor Romero such bases, under the full confidence that I will subscribe to whatever you will settle.

I am your excellency's, &c.,

LORENZO MONTÚFAR.

No. 169.

Mr. Frelinghuysen to Señor Montúfar.

DEPARTMENT OF STATE,
Washington, June 27, 1882.

SIR: The historical statements in your letter of the 15th of June, in reply to mine of the 5th of June, in relation to the efforts of the Government of the United States to bring about a good understanding between Guatemala and Mexico, touching the boundary dispute between them, have been read with much interest. I permit myself to say, however, that they scarcely seem to touch the only questions which Mr. Mariscal's observations left open for the President's consideration.

If Mexico were willing to accept the terms and conditions of arbitration offered by you on behalf of Guatemala, the President would be much pleased to act as the umpire between the two governments.

On the other hand, if Guatemala is willing to accept the terms and conditions named by Mr. Romero, and desires that the President should act as such umpire, the President is willing to do so.

But if the parties desire the President in any contingency to act as umpire, it is manifestly improper for him to consider and express an opinion in advance in favor of either party upon the merits of the case, or upon the scope of the subject to be submitted.

It will, therefore, be perceived that without a more definite statement as to the wishes of your Government on the latter point, the President is unable to act with a reasonable certainty that he is carrying out those wishes.

Accept, &c.,

FRED'K T. FRELINGHUYSEN.

No. 170.

Señor Montúfar to Mr. Frelinghuysen.

LEGATION OF GUATEMALA,
Washington, July 21, 1882.

MR. MINISTER: I have the honor to inform your excellency that the President of the Republic of Guatemala, who is now in this capital, has instructed me personally, and in the most special manner, to address myself to your excellency in the terms which I am about to set forth with reference to the boundary question pending between Guatemala and Mexico.

My government, in the interest of harmony and of the good relationship which should be maintained between neighboring countries, desires to avoid all the difficulties which might place themselves in the way of a speedy and amicable solution. These difficulties have consisted hitherto in the discussion of the rights of both republics to the territory of Chiapas, including Soconusco. Therefore the President desires that this point may be no obstacle in arriving at an end of the business, and, believing that nothing would be so opportune as to have the United States of America, a power friendly to the two countries, which gives them all the guarantees of impartiality and justice, and with respect to which there should be good reason to believe, too, that it pos-

sesses the unlimited confidence of both, consent to take upon itself to put an end to this controversy. He asks, through me, that the United States, by its mediation and in virtue of an arbitration, will do the Republic of Guatemala the inestimable service of giving a decision which shall fix the dividing boundaries between Guatemala and Mexico, in the sense above set forth.

In order to attain this result, the President of Guatemala eliminates the difficulty touching Chiapas and Soconusco, which is the obstacle hitherto set up on behalf of Mexico, and consequently the boundaries which it pertains to the arbitrator to fix, are those between Chiapas and the Republic of Guatemala throughout their proper extent.

The President of Guatemala expresses to your excellency, through me, his desire that his Excellency the President of the United States of America will consent to accept the position of arbitrator in order to define this question within the proposed terms. It would be very gratifying to him to know if the President will be pleased to accept this charge on this basis, so that he may thereupon inform the Government of Mexico of the request which he has thus made to the Government of this republic (United States), and to learn if it (Mexico) accepts, for its part, the suggestion and the arbitration proposed by Guatemala.

In case of its acceptance (by Mexico), and the remaining details thereupon being decided, the matter will forthwith be submitted to his Excellency's decision; and in the remote contingency of its not being accepted, Guatemala will have thus taken a step which unequivocally demonstrates the sincerity of its intention to terminate this question, even though imposing upon itself a costly sacrifice.

I take, therefore, the liberty of troubling your excellency, begging you to be pleased to honor me with a response which will show whether his Excellency, the President of the United States of America will consent to accept the nomination which the Republic of Guatemala offers to him for this delicate charge. If the response be favorable, as I am led to believe it will be, by the expressions which his Excellency the President, and your excellency likewise, have had the goodness to make to the chief of the nation which I represent, and to myself, it will be duly announced on behalf of Guatemala to Mexico, to the end that if it (Mexico) accepts and adheres to the suggestion, the matter may forthwith remain subject to the enlightened decision of his Excellency the President of this republic.

I have much pleasure in stating to your excellency that the Government of the Republic of Guatemala will be profoundly grateful to that of the United States of America for the acts of noteworthy deference which its acceptance will imply.

This gratifying opportunity affords me the honor of assuring you once more that I am your excellency's very faithful and respectful servant,

LORENZO MONTÚFAR.

No. 171.

Mr. Frelinghuysen to Señor Montúfar.

DEPARTMENT OF STATE,
Washington, July 24, 1882.

SIR: I have had the honor to receive your note of the 21st instant, in which, with reference to the questions heretofore discussed between

Guatemala and Mexico concerning the boundaries between them, you state that the President of Guatemala, being in this capital, has instructed you to apply, through me, for the exercise of the good offices of this government in bringing about a conclusion of the difficulty between the two countries, within the terms expressed in your letter.

As I understand those terms, the Government of Guatemala, in the interest of harmony, removes altogether its claim advanced to the possession of Chiapas, including Soconusco, and desires that the President of the United States will signify his assent to the proposal of Guatemala that he shall act as arbitrator in tracing the boundary line between Guatemala on the one hand and the State of Chiapas—including, as stated, Soconusco—on the other, and not elsewhere.

Understanding the question thus, the President directs me to say that if an agreement be reached between Guatemala and Mexico, tendering to him the post of arbitrator for the determination of the boundary line, on bases of submission, to be specified in such agreement, he will have great pleasure in accepting the high trust proposed.

Your note leads me to believe that, with the announced elimination of the question of territorial right to the disputed district, and the offer to narrow the scope of the arbitration to the physical determination of a boundary line, the negotiation between yourself and Mr. Romero has progressed so far toward a pacific and harmonious solution that the remaining details of a settlement will offer no difficulty.

Accept, &c.,

FRED'K T. FRELINGHUYSEN.

No. 172.

Señor Cruz to Mr. Frelinghuysen.

SAN FRANCISCO, CAL.,
October 14, 1882. (Received October 25.)

SIR: In pursuance of instructions from his Excellency the President of the Republic of Guatemala, I have the honor to address your excellency, for the purpose of informing you that, as his Excellency told your excellency he intended to do, he addressed the Government of the United States of Mexico, in order to bring about a settlement of the boundary question, which was pending with Guatemala, and in order to stipulate that it should be decided by the arbitration of his Excellency the President of the United States of America.

A frank and friendly understanding having been reached with the representative of the Mexican Republic at Washington, the preliminary basis of a treaty was signed at New York, on the 12th of August last. According to said basis, the dividing line between the Republic of Guatemala and that of Mexico will be drawn the province of Chiapas and its department of Soconusco being considered as an integral part of the territory of the United States of Mexico. According to the same basis, when the line is drawn, actual possession is to be respected, and if the two governments cannot agree, a commission will be appointed to draw it; and according to said basis, in case of a disagreement, recourse will be had to the Government of the United States of America, in order that his Excellency the President may decide it in the capacity of arbitrator, without appeal.

In the preliminary convention it was also stipulated that, within six months from the date on which it was signed, the final boundary treaty should be signed in the city of Mexico, and the minister of Guatemala in that republic has already sent telegrams stating that the final treaty has now been signed.

His Excellency General Barrios was awaiting this information, in order to communicate it to your excellency's government, but not having as yet received it, and having made all the preparations to return to this country, he has deemed it his duty to transmit this information concerning all that has taken place. On his arrival in Guatemala, and when the treaty shall have been received, the department of foreign relations will send your excellency a copy thereof, and likewise of the preliminary basis decided upon at New York.

The President entertains the pleasing hope that the matter will be satisfactorily settled, and he thinks that it will perhaps be unnecessary to trouble his Excellency the President of the United States of America to act as arbitrator in the case. He nevertheless trusts that if it shall be necessary to have recourse to him, according to the stipulations of the treaty, he will be pleased, as he promised, to do the two countries the great favor of settling the question by his arbitration whenever they may solicit it.

I avail myself of this occasion to offer your excellency and your government, in the name of the President of Guatemala and also in my own, the warmest thanks for the kind welcome that was extended to us on our arrival in this hospitable country, and for the attention which the government was pleased to show to the chief magistrate of the Guatemalan nation, and I have the honor to assure you that I am, with the most distinguished consideration, your very obedient servant,

FERNANDO CRUZ.

HAWAII.

No. 173.

Mr. Comly to Mr. Blaine.

No. 199.] LEGATION OF THE UNITED STATES,
Honolulu, December 19, 1881. (Received January 3, 1882.)

SIR: His excellency Henry A. P. Carter has resigned the place of minister of the interior, and goes by steamer of this date *en route* as H. H. M. envoy extraordinary and minister plenipotentiary to Portugal, to negotiate a treaty.

The special object of making the treaty at this time is to secure an amicable acquiescence on the part of Portugal with the desire of the Hawaiian board of immigration for quite a large Portuguese immigration.

The King and his ministers seem to have arrived at the conclusion that the Portuguese islands and dependencies form the most desirable source and classes of immigrants for permanent increase of Hawaiian population.

Mr. Carter was associated in the negotiation of the American reciprocity treaty; he negotiated the German-Hawaiian treaty in Berlin:

has been envoy extraordinary and minister plenipotentiary to Great Britain, and minister of foreign affairs, and is well qualified for his post. Attorney-General Armstrong will be his *ad interim* in the interior department in his absence.

I have, &c.,

JAMES M. COMLY.

No. 174.

Mr. Comly to Mr. Frelinghuysen.

No. 213.] LEGATION OF THE UNITED STATES,
Honolulu, April 10, 1882. (Received April 25.)

SIR: Referring to your No. 114, and to my No. 209, I have the honor now to present my report as much in detail as seems to be practicable.

The figures as to unoccupied available lands for sugar and rice promised me by a merchant who was formerly editor of a newspaper and afterward in the government service (*vide* No. 209) have not been forthcoming, though I have exerted myself to the utmost to obtain them. I must say that there does not seem to be any special alacrity to make an exhibit of the quantity of available sugar lands still unoccupied. Such facts as I have been able to gather will appear further along.

With this explanation I take up the consideration of some matters and questions affecting the future of the Sandwich Islands.

I. The aboriginal native race is not only in its decline, but the immigrant population is rapidly on the rise. The decadence of the native race is not only in its numbers, but in every component of strength known in the constituent elements of the state or commonwealth. Out of a population of about 45,000 natives of aboriginal descent, all told, there are over 700 who are condemned and isolated lepers, at the leper settlement on Molokai.

Physicians of the highest standing estimate that there are from 3,000 to 5,000 concealed lepers in the islands. The government physician at the free dispensary in Honolulu, Dr. Fitch, reports officially—and the figures are given in the philo-Hawaiian Pacific Commercial Advertiser of Mr. Gibson, for Saturday, April 8, two days ago—that out of 4,055 *new cases* treated by him for the first quarter of 1882, 2,748 were syphilis and 508 leprosy diseases, not only incurable but unavoidably transmissible by heredity as well as by contagion and infection. In the same report are 51 more cases of other venereal diseases, making the frightful total of 3,307 persons afflicted with diseases of this class, out of 4,055 cases treated, leaving only 748 for all other diseases, even such as coughs, colds, &c. This is the report of a government physician, where the law requires that lepers be isolated and sent to Molokai, yet there are 508 lepers open applicants for relief, in one quarter's time, in the single district of Honolulu. Dr. Fitch says further: "The disease is everywhere among us: members of the police, soldiers, the band, pastors of churches, teachers, students, are all among the sufferers." He says further, in the same report, that at a recent meeting of physicians in Honolulu, one of the oldest and most favorably known physicians of the islands stated his belief that four-fifths of the native population of the islands are infected with syphilis, and Dr. Fitch says "I believe this statement too mild."

The report is not officially promulgated yet. I will ask to forward copies hereafter, as part of the inclosures herewith.

To these terrible antecedents must be added constantly increasing sterility and impotency, and in a large degree more and more foggy perceptions in sexual morals. The physique is, therefore, from all these causes, deteriorating frightfully, and the *morale* is falling still lower. The robust race of the ancient Kanaka has shriveled and dwindled to this melancholy handful, some of whom are still of noble physique and all of whom are of amiable character, but too many of whom are crippled by rheumatism, syphilis, paralysis, or leprosy. They are crippled alike in person, in morals, and in fortune—in mind, body, and estate. Where sugar and rice planting are the chief industries, there is, I am assured, not one Kanaka of pure blood in all the islands who owns or exclusively operates a plantation. Some serve faithfully as contract laborers for foreign proprietors, and some put in small lots on shares, but they do not own or operate the plantation. The town-bred natives of the lower class are too unstable for any systematic work, and cannot be depended upon. There is no mercantile or manufacturing business in the kingdom that is owned and managed by a native of full blood. On the other hand, Americans, English, Germans, or more largely still, Hawaiian-Americans and Englishmen (or to use a better-understood term not in vogue here, *creoles*), own and operate the sugar plantations. Rice is almost exclusively in the hands of the Chinese. Cattle ranches are largely operated by Portuguese. And the thousand and one little shops, bakeries, restuarants, and the like, are in the hands of Chinese, Portuguese, and other foreigners.

The Chinese already constitute more than half the *adult male* population of the kingdom. The Portuguese are increasing rapidly. American capital is increasing much more rapidly than American population. All these hungry hordes of foreigners bring with them habits of industry and thrift, to which the poor Kanaka is nearly a stranger, and he is rapidly going to the wall, clutching wildly at every straw for national life.

South Sea Islanders, not only of lower type than the Hawaiian, but savage and lawless, and without either the noble physique or the amiable character of the ancient Kanaka, have been brought, at great expense, to transfuse the blood of a so-called cognate race into the dying Kanaka people; and the result has been failure. As fast as their contracts expire they prefer to return to the low cocoa-nut islands. Even if successful, the experiment must have resulted in lowering the type of the Kanaka by the infusion of an inferior race. Large expense has been incurred, also, in bringing Portuguese, Norwegians, and others, as laborers and as population; but this mostly results in simple substitution of the alien for the Kanaka race—a result which does not greatly delay the ultimate absorption of the native race into a new fusion of different nationalities of more or less contradictory character and habitat originally.

It is not alone that the commoners of the race are disappearing at the rate of one and a half per cent. per annum; it is even worse with the "chiefs." The "House of Nobles" is created by the sovereign, and is not necessarily of "chief" blood—I do not refer to it. Nearly half of the members of the "House of Nobles" are whites or half-castes. But the natives are still of feudal temper, and their attachment to the native *aliis* or chiefs is deep and abiding, incapable of transfer or substitution. The constitution requires that the sovereign shall be of the native *alii* or "high chief" blood. Of all the royal family and collateral there is but

one frail little girl, half-white daughter of Princess Likelike, to represent the second generation. Queen Douager Emma is childless. Queen Kapiolani has no children. The Princess Luka (Ruth), sister of the late Kamehamehas, has no heir of her body to her name or her large estate. Mrs. Panaki Bishop, daughter of old chief Paki, has never had a child, and has once refused the nomination to the succession. Unless the genealogical tables of the kingdom shall be reformed and enlarged, there is no other family left eligible to the throne. One life alone in the next generation, the little half-white girl constitutes the reserve of high-chief blood to draw from, and even that is not accepted by the body of the natives. They do not recognize the Kalakaua family as true high chief blood. The distinction is made painfully apparent when any of the present royal family are brought in contact publicly with Queen Emma or Princess Luka.

With the native race rapidly disappearing, and the high-chief blood nearly exhausted, with already a majority of the adult males in the kingdom of alien races; with a constitution resting upon a moribund constituency, and relying for functional life upon nearly defunct agencies, what future is there for the native race and the existing dynasty of the Sandwich Islands.

As part of an American Zollverein, part of our productive and commercial system, the problem of replenishment of the vital forces of Hawaii demands consideration of us. If we will not have it drift away into Asiatic possession, and an oriental civilization, or have it drawn into a British protectorate through the introduction of East Indian coolies, the wards of Great Britain, we must be watchful.

Leaving out of account every consideration except the good of the Hawaiian Islands, our own American colored race can supply a more desirable population, without drawing too heavily upon our resources, than any of these other races or peoples now in prospect.

II. There are, strictly speaking, no government lands suitable for homesteads or small holdings. There are no homestead lasws. Lands to till "on shares," or small quantities for rent, may be had, and planters with mills are glad to encourage independent production in this way. But, in this as in other countries, sugar-planting is a business requiring large capital. It is one of the disabilities of the native, that he seldom or never has capital enough to carry on a plantation. To remove this disability, native statesmen in the legislative assembly have made grotesque efforts, which would be ludicrous if they were not pathetic. In order to put the native on an equality with the *Haole* in this respect, it was gravely proposed in the last legislative assembly to make an impossible loan of ten million dollars, a great part of the proceeds of which were to have been disposed of by government in helping poor Kanakas, ("who could not get money at Bishop's Bank" having no security to offer) to buy lands and machinery, and become rich planters at a bound, by act of the legislative assembly and use of the public credit. One Hoapili Baker, in 1880, issued a manifesto full of such absurdities, a copy of which was inclosed with my dispatch No. 104, April 10, 1880. This manifesto, so ridiculed before the election, made its reputed author a legislator, and it was soon found that the real author had a party behind him which came near wrecking the kingdom with disastrous projects threatening practical confiscation of American and other foreign capital invested here. The same author has again put forth a manifesto, before the late election, fathered this time by a statesman named Lilikalani, and subscribed by Walter Murray Gibson and others, elected afterward to the next legislative assembly, called to meet on the 29th

instant. I inclose three copies separate, as printed matter. The absurdity of this document should not mislead anybody as to its mischievous and dangerous power over the native mind clothed with legislative functions. I only state the prevailing public opinion among intelligent foreigners here, when I state that the firm and prudent action of the resident diplomatic body alone saved the country from bloodshed and probable revolution, during the Moreno *régime*, in 1880, when the Hoapili manifesto was sought to be put in action. Like trouble is expected at the coming session for 1882, as indicated by the Lilikalaui manifesto. The King and all natives long with a desperate longing for a complete Kanaka ascendency, and they do not see any better way to accomplish this than through legislation practically charging foreign capital with the support of not only the government but the people as well.

III. The question how much available sugar and rice land is still unoccupied, and how much further expansion may be expected in the productive industries of the islands, is one upon which I have found it difficult to obtain data, as already before stated.

It will appear from the inclosures that I early applied to the foreign office without success; that I was promised reliable data from private sources, which have not been forthcoming; finally, on the 18th of March, The Pacific Commercial Advertiser published statistics purporting to come from the minister of the interior (inclosure No. 2), and a tabular statement of unoccupied lands made up in 1872 (inclosure No. 3), with interesting comments by the editor, Mr. Walter Murray Gibson (inclosure No. 4), which seemed to cover the points desired. I thereupon addressed the minister of foreign affairs, requesting to know how far these statistics might be taken as reliable (inclosure No. 5), and received his reply, discrediting them almost wholly (inclosure No. 6).

I forward all these without further comment; also, separate, as printed matter, three copies of the Commercial Advertiser, of March 25, and one unmutilated copy of March 18, the date from which above clippings are made, sending these simply as possible objects of curiosity to the Secretary of State, and not as regular exhibits for this dispatch.

I have, &c.,

JAMES M. COMLY.

[Inclosure 2 in No. 213.]

THE LABOR QUESTION.

A copy of the following circular requesting statistics on the labor question has been forwarded by his excellency the minister of the interior (as president of the board of immigration) to each known employer of labor in the kingdom:

"The board of immigration desire statistics on the subject of labor and request your kind assistance. It is important to know the number of men employed on all the plantations, and their nationality. If this knowledge is accurately obtained, it will enable the board to estimate the number of laborers required for any proposed increase of the sugar crop. For instance, one planter says that his crop of 400 tons was produced by the total labor of 80 men, or 5 tons to the labor of each man. If this estimate should be verified by the experience of all the planters, it would be of great value in determining proximately the number of laborers actually employed in sugar making.

"Accurate returns of the different nationalities of the laborers will enable the board to ascertain the movements of immigrants. For instance, it is said that there are 14,000 Chinese in the kingdom. If it should appear that only 5,000 were employed on the sugar estates, it will be possible to estimate the number engaged in rice planting and other occupations; and if the number engaged in rice planting is subsequently obtained, it will be possible to ascertain the number of the floating Chinese population, which is a matter of no little importance.

"This request of the board may not reach some of those engaged in planting cane only, and therefore the planters are requested to consult their neighbors and obtain statistics from such persons, and from those who employ only a few hands. The returns should show the number of laborers on February 15, 1882.

"Upon the return of these statistics a general summary will be made up for the information of the community. I would request that the inclosed blank form be filled up and returned to me."

Circulars were addressed to the following corporations and persons. Those names marked with a (*) have, at the present date, made no returns.

HAWAII.

Hilo.—Hakalau plantation, Wainuku plantation, Onomea plantation, Paukaa plantation, Honomu plantation, Waiakea plantation, *Waiakea mill, Pepekeu plantation, Spencer's plantation, Hitchcock & Co.'s plantation.

Hamakua.—*Paauhau mill, *Paauhau plantation, Hamakua plantation, Hamakua mill, *Aamano plantation, Honokaa Sugar Co., Pacific Sugar Mill.

Laupahoehoe.—W. Lidgate & Co.'s plantation. A. Lidgate & Co.

Ookala.—Soper, Wright & Co.

Honokaa.—J. R. Mills.

Kohala.—*Star mill, Ookala plantation, Thompson & Chapin, Halawa plantation, Union Mill Company, Niulii plantation, Beecroft plantation, Hawi mill, *Montgomery & Co.'s. plantation, Kohala plantation.

Kohala and Laupahoehoe.—*R. R. Hind.

Kau.—Honuapo plantation, Naalehu plantation, Hilea Sugar Company, H. M. Whitney, Chas. Wall, *Hawaiian Agricultural Company.

Pahala.—W. Goodale.

MAUI.

Ulupalakua.—Makee plantation.

Waihee.—Waihee Sugar Company.

**Hawaiian Commercial Company.*—(Spreckels & Co.)

Wailuku.—Wailuku plantation.

Makawao.—Brewer and Crowningburg, East Maui plantation.

Hamakua.—Huelo plantation.

Haiku.—Haiku plantation No. 1. *Haiku plantation No. 2.

Paia.—Alexander and Baldwin's plantation, J. M. Alexander.

Waikupu.—Waikapu plantation.

Huelo.—Huelo Mill Company.

Lahaina.—Pionner Mill.

Kipahulu.—Kipahulu plantation.

Hana.—Hana plantation.

Makawao.—*Grove Ranch plantation.

Olowalu.—Olowalu plantation.

Hana.—Kipahulu mill.

KAUAI.

Koloa.—Koloa ranch, Koloa plantation, Eleele plantation.

Eleele.—Fr. Bindt.

Kilauea.—Grant and Brigstock, Kilauea plantation.

Kealia.—Makee Sugar Company, Kealia plantation, *R. W. Purvis.

Hanamaulu.—Chris. L'Orange, Hanamaulu mill, A. S.Wilcox.

Lihue.—Lihue plantation.

Kekaha.—Kekaha Mill Company.

Waimea.—Kekaha plantation.

Nawiliwili.—Grove Farm.

Hanalei.—Princeville plantation.

MOLOKAI.

**Moanui* plantation, Kamaloo plantation.

**Kalae.*—R. W. Meyer.

OAHU.

Kaneohe.—Kaneohe plantation.

Koolau.—*Heeia plantation, *Ahuimanu plantation.

Laie.—Laie plantation.

Waimanalo.—Rose & Company, Waimanalo Sugar Company.

Waianae.—Waianae Sugar Company.

Waialua.—Waialua plantation.

The following is a summary of the statistics received from seventy-two returns. It will be noticed that returns from the Spreckels and other plantations are not in, but they will be included in an amended report hereafter:

Nationalities.	Sugar boilers.	Engineers.	Clerks and lunas.	Laborers of all kinds.
Hawaiians:				
Men	6	11	6	2,248
Women				118
Chinese:				
Men	3			3,984
Women				19
Americans	11	15	16	140
English	10	21	18	61
Portuguese:				
Men	1			395
Women				80
South Sea Islanders:				
Men				516
Women				299
Germans	5	3	12	85
Norwegians:				
Men		1		202
Women				25
Japanese				15
Danes	1	1	1	
Other nationalities	7			90
Total	41	52	53	8,277

Number of laborers desired, 2,885.

Nationality preferred, excepting Hawaiians, as follows:

27 planters prefer Portuguese, and want	1,000
35 planters prefer Chinese, and want	1,600
4 planters prefer Hindoos, and want	75
3 planters prefer New Hebrides, and want	60
1 planter prefers Swedes or Scotch, and wants	150
	2,885

[Inclosure 3 in No. 213.]

Table of statistics of sugar-cane plantations on the Hawaiian Islands, 1872.

	Hands employed.	Males, native.	Females, native.	Chinese.	Other nationalities.	How many more would employ.	Acres in cane.	Cane land in the neighborhood.	Race preferred.
								Acres.	
Kaiwiki	175	132	36	....	7	50	650	7,000	Japanese.
Kaupakuea	245	125	20	100	....	50	600	1,500	Polynesian.
Paukaa	100	100	....	....	....	25	180	7,000	Chinese or Japanese.
T. Spencer	150	128	12	10	....	.....	400	1,000	Do.
Kohala	200	182	18	....	....	50	900	2,000	Do.
A. Hutchison	39	29	....	5	5	45	150	4,000	Japanese.
Onomea	180	127	....	51	2	50	500	3,000	Polynesian.
Dr. Wright	50	50	....	....	....	10	100	.....	
J. C. Costa & Co	14	12	2	....	....	15	60	4,000	Japanese.
E. C. Bond	5	5	....	....	....	.....	30	3,000	Polynesian.
D. Hitchcock	32	32	....	....	....	40	60	5,000	Chinese.
Hinds	100	100	....	....	....	20	150	2,000	
Thomas Hughes	25	19	6	....	....	.....	120	300	Portuguese.
Henry Cooper	15	15	....	....	....	.....	.....	.....	Hawaiian.
H. N. Greenwell	11	7	1	1	2	.....	.....	.....	Do.
Frank Spencer	10	8	....	2	....	6	.....	6,000	Japanese.
E. Bond	2	2	....	....	....	.....	.....	6,000	Hawaiian.
J. W. Smith	3	2	1	....	....	.....	.....	6,000	Portuguese.
James Woods	7	9	1	....	....	.....	.....	4,000	Hawaiian.

	Hands employed.	Males, native.	Females, native.	Chinese.	Other nationalities.	How many more would employ.	Acres in cane.	Cane land in the neighborhood.	Race preferred.
MAUI.								*Acres.*	
Makee's	170	78	....	51	41	100	1,200	3,000	Japanese.
Haiku	200	90	37	58	15	50	850	3,000	Do.
A. H. Spencer	77	60	12	2	3	.....	400	600	Polynesian.
Wailuku	250	170	60	14	6	100	500	3,000	Japanese.
Waihee	180	156	24	....	....	25	800	1,000	Do.
Waikapu	130	120	10	....	....	50	900	1,200	Chinese.
Hana	80	70	....	10	....	25	150	500	Do.
Bailey	60	60	....	....	....	.....	100	.....	
Hobron	60	60	....	....	....	.....	150	.....	
Campbell & Turton	268	180	43	35	10	50	600	1,200	Chinese.
West Maui Sugar Association.	150	130	20	....	....	.....	400	.....	
H. P. Baldwin	60	40	....	20	....	30	400	760	Japanese.
Ed. Jones	12	10	2	....	....	70	5	500	Do.
OAHU.									
L. Chamberlain	37	15	7	15	....	20	140	3,000	Japanese.
Laie	60	50	10	....	....	.....	200	30	Polynesian.
Waialua	25	19	6	....	....	10	50	.....	Japanese.
Keaahala	25	20	5	....	....	.....	125	.....	
Kaalaea	120	100	20	....	....	25	400	.....	Japanese.
Kaneohe	60	40	....	20	....	25	150	.....	Chinese or Japanese.
M'Keague	60	35	....	25	....	25	200	.....	Do.
R. F. Bickerton	4	3	1	....	....	.....	5	1,000	Japanese.
S. N. Emerson	10	9	1	....	....	3	.....	350	Do.
J. H. Coney	15	15	....	....	....	100	.....	.....	Hawaiian.
Walker & Allen	5	5	....	....	....	.....	.....	.....	Japanese.
W. W. Hall	8	3	2	3	....	.....	.....	.....	
KAUAI.									
Princeville	155	80	10	65	....	120	350	3,000	Hindus.
Lihue	120	87	8	20	5	30	180	1,600	Japanese.
Waipa	30	30	....	....	....	20	100	.....	
E. Lindemann	30	10	6	14	....	20	100	350	Chinese.
A. Conrad & Co	25	20	5	....	....	10	.....	.....	Japanese.
D. M'Bryde	12	8	4	....	....	4	.....	1,500	Do.
A. Smith	9	6	2	1	....	4	.....	.....	Do.
H. Wright	.....	.....	....	....	....	.....	.....	5,000	Do.
J. & F. Sinclair	30	30	....	....	....	.....	.....	5,000	
MOLOKAI.									
T. G. Dwight	5	3	2	....	....	3	.....	3,000	Hawaiian.
LANAI.									
W. M. Gibson	15	10	1	4	....	50	.....	2,000	Hindus or Japanese.
	3,921	2,904	395	526	96	1,330	12,355	105,810	

[Inclosure 4 in No. 213.]

[From the Pacific Commercial Advertiser, Saturday, March 18, 1882.]

COURT NEWS.

On Monday, 6th instant, His Majesty paid a visit to Paia, returning to Wailuku the same evening. At Paia His Majesty was entertained at dinner by the inhabitants of the district, and addresses of welcome were presented,

His Majesty subsequently went by sea to Hana, remaining there until Thursday last, on which day he proceeded by the steamer Lehua to Lahaina, arriving there in the evening. The town of Lahaina was illuminated in honor of His Majesty's arrival.

From Lahaina His Majesty will return direct to the capital, and may be expected here to-morrow morning.

THE DEVELOPMENT OF A DECADE.

By permission of his excellency Wm. N. Armstrong, president of the board of immigration, we are enabled to lay before our readers some very interesting statistics collected by the board in relation to our industrial enterprises and the state of labor in the kingdom at this time; and at the same time we present statistics on the same subject, collected and prepared by the secretary of the immigration society in 1872; so that the industrial development of a decade in the country's history is clearly shown, by these being placed alongside the statistics of 1882.

The information obtained, both at the former and later period, is not quite full, but sufficiently approximate to warrant correct deductions with regard to the progress and development of the country.

In 1872 there were 12,355 acres cultivated in sugar-cane, with a yield of 16,995,402 pounds, for that year, much of the indicated area being newly planted. The estimated laboring force was 3,728 hands, which would give an average of nearly 3¼ acres to the hand.

No statistics as to the acreage under cane have yet been taken for this year, but we hope to obtain them hereafter. The force of hands at work (if, as is reasonable, we put down 2,000 for the plantations whose replies have not yet been received) is, in 1882, 10,277, and it is estimated that the crop will be 130,000,000 pounds. Even if we take last year's crop of 92,393,044 pounds as the product of the laborers scheduled, the comparison between the results, in proportion to the number of hands employed, is very striking. It should be stated that whilst the returns of this year discriminate between field laborers and mill employés, the returns of 1872 did not; there must be, therefore, made a small deduction from the estimate of the field force of that period.

The great difference in results shown is to be attributed to increased experience, but more especially to the introduction of improved machinery, and the great extension of means of irrigation. When we consider the large percentage of juice which is now obtained, in comparison with the average secured in 1872, and that at that time immense quantities of molasses were allowed to run to waste, whilst now the skimmings, even, well filtered, yield an important percentage of saccharine product, we readily perceive some of the reasons for this great change.

In respect to labor, it will be noticed that in 1872 the Hawaiian people supplied the whole labor force, whereas in this year the Chinese supply nearly half of the whole, and other foreign laborers one-fourth.

Reverting to the statistics which show the preferences for different nationalities of laborers which exist among planters, the most notable feature is the great preference manifested in 1872 for Japanese, who are now not mentioned. There have been no immigrants here from Japan since 1868; hence that race is not now considered in the calculations of planters. Portuguese and Chinese are now most largely called for, because they are supposed to be the only races available. But if it were known that Hindoos and Japanese were to be brought here, they would be very generally preferred.

[Inclosure 5 in No. 213.]

Mr. Comly to Mr. Green.

LEGATION OF THE UNITED STATES,
Honolulu, March 23, 1882.

SIR: About two months ago I had the honor to consult your excellency verbally with regard to obtaining certain statistics as to available sugar and rice lands not yet taken up, as to lands available for small holdings, and what inducements are offered by Hawaiian laws in the way of homesteads for immigrants of small means desiring to occupy such small holdings, as to amount and kinds of labor already employed, wages, &c.

It was not then practicable to supply exact figures or reliable conjectures on these points.

In this week's Hawaiian newspaper I note what purport to be official figures, founded upon non-official answers to inquiries, covering some of these points, from the office of the minister of the interior.

I now have the honor to respectfully inquire of your excellency whether in your opinion those before-mentioned figures are sufficiently exact and authoritative to be used by me as reliable data in answering an instruction from the honorable Secretary of State; and, if so, when and where I may obtain official copies of the same.

I have, &c.,

JAMES M. COMLY.

[Inclosure 6 in No. 213]

Mr. Green to Mr. Comly.

DEPARTMENT OF FOREIGN AFFAIRS,
Honolulu, March 28, 1882.

SIR: I have the honor to acknowledge the receipt of your dispatch of 23d instant, in which you inquire with regard to obtaining certain statistics, as to available sugar and rice lands not yet taken up, as to lands available for small holdings, and what inducements are offered by Hawaiian laws in the way of homesteads for immigrants of small means, and as to amount and kinds of labor already employed, wages, &c.

I will, if you will allow me, answer the second question first, as to the inducement offered by Hawaiian laws in the way of homesteads for immigrants, by stating that the government possesses no lands, or at least not in sufficient quantity to make it practicable to offer small holdings for immigrants.

There are, however, opportunities continually offered by private parties, to planters of sugar-cane who wish to take up small quantities of land. This, however, is in the way of lease, not sale.

With regard to the available sugar and rice lands not yet taken up, I regret that the government have no reliable statistics. What appeared in the Pacific Commercial Advertiser of last Saturday week, purporting to give the available sugar lands, was got up hastily by the Planters' Association, in 1872, and is not reliable.

I have asked the vice-president of the new Planters' Association if he could furnish me with reliable statistics, but he informs me that it would require a special committee, and take some months to work them up.

With regard to the amount and kinds of labor now employed, the statistics which have appeared in the papers lately are tolerably correct as far as they go, but they are incomplete, and not sufficiently exact and authoritative to be used by you as reliable data in answering instructions from the honorable Secretary of State.

I remain, &c.,

W. L. GREEN.

No. 175.

Mr. Comly to Mr. Frelinghuysen.

[Extract.]

No. 217.] LEGATION OF THE UNITED STATES,
Honolulu, May 8, 1882. (Received May 23.)

SIR: I have the honor to state that the Legislative Assembly of this kingdom was opened by the King in person in the presence of a large concourse, consisting of the diplomatic and consular bodies and notable persons, official and non-official, on the 29th day of April, 1882. Copies of the King's speech are made inclosure No. 1.

I regret to state that although the executive reports are required to be placed before the Legislative Assembly on the first day of the regular session, I have not yet received from the Hawaiian foreign office a copy of any of them, and therefore cannot present to the Secretary of State either the documents themselves or any review by this mail.

I feel it my duty to report that grave apprehensions are felt among foreign residents as to the probable action of the Legislative Assembly. The Assembly should be held in check by a careful and conservative Executive, advised and guided by his constitutional ministers.

* * * * * * *

The native Hawaiians own scarcely any property, yet they control absolutely the rate of taxation and amount of expenditure. The enterprising foreign residents—largely American—who have brought their capital here and are developing the resources of the kingdom, own nearly all the estates, real and personal, and do nearly all the business,

yet have only a precarious, indirect, and uncertain control of the rate of taxation and amount of expenditure. Even under the most favorable conditions otherwise, this single misjoinder of the producing with the expending power might be looked upon with apprehension. But the conditions are not favorable otherwise; they are actively and menacingly unfavorable.

There is such a state of anxiety in the minds of foreign residents that a number of the most prominent planters and business men have pressed me earnestly for some assurance that the United States Government would protect American citizens against such native legislation as might amount to a practical confiscation of a large share of their estates in these islands.

* * * * * * *

I can only say to these gentlemen that, however exceptional and anomalous their condition may be in having their property at the mercy of a legislative body beyond their control and inimical to their interests, the same comity is due to this government that would be paid by the Government of the United States to any stronger and more powerful state.

While the United States will be behind no other power in protecting its citizens against injustice or a denial of justice under any flag that floats, I have expressed my conviction that the Secretary of State would not approve of any interference with the rights of the Hawaiian kingdom as a sovereign state.

It is a difficult question and one of a very practical bearing in the present aspect of affairs here, how far the United States Government may be inclined to go in the protection of its citizens here, under the anomalous circumstances of the existing state of things. Whether a mere "moral support" will suffice in the future for the protection of American interests at stake here, may well be doubted. * * *

I respectfully and earnestly ask that the Secretary of State may be pleased to take these matters into consideration, and instruct me how far the United States Government may be willing to go in the protection of the vested interests of our countrymen who remain American citizens, while they have taken advantage of the reciprocity treaty to seek their fortunes in Hawaii.

* * * * * * *

I have, &c.,

JAMES M. COMLY.

No. 176.

Mr. Frelinghuysen to Mr. Comly.

No. 118.] DEPARTMENT OF STATE,
Washington, May 31, 1882.

SIR: Your No. 217, of the 8th instant, in which you report the political tendencies now making themselves manifest in the islands and the movement in the direction of onerous taxation of capital and property to a degree which cannot fail to work injury to the foreign interests and enterprise which have built up Hawaiian prosperity, has been read with attention.

It cannot be doubted that indiscriminate and reckless exercise of the tax-levying power by those portions of the native element who have little

or no taxable interests at stake must react harmfully on the essential elements of insular prosperity. Independently of the consideration that a large part of the operating capital and mechanical enterprises of Hawaii has been contributed by citizens of the United States, this government feels itself so kindly bound to Hawaii by the traditions of past intercourse that it would not hesitate to remonstrate with the Hawaiian Government against the adoption of a short-sighted policy which would be alike harmful to existing vested interests and repellant of the further influx of capital from abroad.

While this government recognized from the first the constitutional sovereignty of Hawaii, and still recognizes her right to adjust internal matters of taxation and revenue on constitutional principles, yet it cannot permit to pass without very urgent protest in all proper quarters a measure subversive of the material interests of so many of its citizens who, on the faith of international comity, have given their wealth, labor, and skill to aid in the prosperity of Hawaii. And it makes this protest the more earnestly, inasmuch as the treaty relations between the two countries (in which Hawaiian interests were even more subserved than our own) are such as to give the United States the moral right to expect that American property in Hawaii will be no more burdened than would Hawaiian property in the United States.

I am, &c.,

FRED'K T. FRELINGHUYSEN.

No. 177.

Mr. Comly to Mr. Frelinghuysen.

No. 223.] LEGATION OF THE UNITED STATES,
Honolulu, June 5, 1882. (Received June 21.)

SIR: I have the honor to transmit correspondence with Peter Cushman Jones, esq., an American merchant, planter, shipper, and sugar factor residing at Honolulu, as to the present status of Americans who have taken the oath of allegiance to Hawaiian kings (inclosures 1 and 2).

There are a number of verbal applications of the same sort.

The apprehension of wasteful legislation by the ignorant natives who now control the politics of the country through the efforts of white and native demagogues to stir up hatred against the more prosperous foreigner, has moved some of the Americans, who, like Mr. Jones, are most largely interested in business here, to seek such protection of the American flag.

The status of these men becomes a matter of importance, and I respectfully ask an instruction from the Secretary of State on this point.

I have, &c.,

JAMES M. COMLY.

[Inclosure 1 in No. 223.]

Mr. Jones to Mr. Comly.

HONOLULU, *May* 26, 1882.

SIR: I am very desirous of placing myself under the protection of the United States if it is possible for me to do so.

In order that you may fully understand my case I beg to submit to you the following facts: I am an American by birth, having been born in the city of Boston, Mass., in the year 1837, where my ancestors for many generations were born.

In the year 1857 I came to these Islands and established myself in business, marrying the daughter of Mr. E. O. Hall, who was connected with the American mission.

In the year 1864 I had an opportunity of purchasing a vessel under the Hawaiian flag. I applied to the collector of customs, Mr. W. Goodale, to see if I could arrange to have the vessel placed in the name of some Hawaiian subject in order to avoid taking the oath of allegiance to the Hawaiian Government, as was required by all owning vessels under that flag. He replied that if any person made oath that he was owner of the vessel he would be obliged to take such oath as being true. Not wishing to ask any person to take a false oath I concluded to take the oath of allegiance, after being assured that should I return to Boston I would be entitled to all the rights and privileges of an American citizen after a residence of six months in that city, and also after satisfying myself that I was not called upon to forswear my allegiance to my native country. I herewith submit a copy of the oath taken by me:

"The undersigned a native of the United States of America lately residing in Honolulu, being duly sworn, upon his oath declares that he will support the contitution and laws of the Hawauan Islands, and bear true allegiance to His Majesty Kamehameha IV."

Having become a citizen of Hawaii, and having property of my own, I felt it my duty to vote and use my influence on all occasions for good government, and I have always endeavored to do my duty in this respect. But the majority of the voters here are irresponsible natives with little or no property to protect, and I feel a want of security under the present state of things, and am consequently very anxious to feel if possible that I may be secure. I accordingly make this application to you, assuring you of my willingness to renounce my allegiance to Hawaii, and taking any oath, however strong, which will reinstate me as an American citizen. I would add that I have never been a candidate for any political office in the Hawaiian Government, the only object inducing me to swear allegiance to Hawaii being for business purposes. Asking your early consideration of this matter,

I have the honor, &c.,

PETER C. JONES, JR.

[Inclosure 2 in No. 223.]

Mr. Comly to Mr. Jones.

LEGATION OF THE UNITED STATES,
Honolulu, June 3, 1882.

SIR: I have the honor to acknowledge the receipt of your note dated May 26th, handed to me last night.

The oath of allegiance which you have taken differs from the oath of naturalization in the United States, in this, that it does not require the person taking it to renounce in terms any other former allegiance, while the oath of naturalization does require not only a general but a specific renunciation—*forever;* first, of "all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty"; and second, "and particularly" by a name, "to the prince, potentate, state, or sovereignty of which the alien may be at the time a citizen or subject."

The question remains whether one does not impliedly renounce his old allegiance in taking up a new one.

No one can be a citizen of two countries at once; neither can he lay down and take up his allegiance at his own pleasure or interest.

Your application for rehabilitation, so far as this legation is concerned, seems to me to involve only this one question—whether you are a subject of the kingdom to which you have sworn allegiance, or remain a citizen of the United States.

If you are now a citizen, you have been a citizen all along from the beginning, and need no restoration. If you are not a citizen, I do not know of any provision which may restore you to citizenship by six months' return residence in Boston. The naturalization laws point out the only way, so far as I know, in which one, not a citizen, may become a citizen of the United States.

A number of our countrymen who are in the same uncertain condition as yourself with regard to their citizenship, and who, as well as yourself, have large material interests vested here, and the same grave apprehensions as to the outcome of certain threatened dangers, have lately applied to me verbally, in terms similar to those of your note, intending if possible to claim the protection of the American flag.

In order that this legation may be put in a position to give an authoritative response in such cases, I shall take occasion to submit a copy of your note to the honorable Secretary of State, and ask an instruction covering your points of inquiry.

I have, &c.,

JAMES M. COMLY.

No. 178.

Mr. Frelinghuysen to Mr. Comly.

No. 122.] DEPARTMENT OF STATE,
Washington, July 1, 1882.

SIR: Your dispatch of the 5th ultimo relative to the case of Mr. Peter Cushman Jones, an American citizen resident in Honolulu, has been received.

Mr. Jones, as it appears from his letter to you of the 26th of May, a copy of which you inclose, was born in Boston, Mass., in 1837, and in 1857 took up his residence in the Hawaiian Kingdom, entering into mercantile pursuits there as a domiciled American citizen. Becoming the owner of a merchant vessel there under the Hawaiian flag, it became necessary for him, in order to the maintenance of his rights in that kingdom, to take an oath of allegiance to the sovereign of the islands. The form of the oath is set out in Mr. Jones's letter, thus:

> The undersigned, a native of the United States of America, being duly sworn, upon his oath declares that he will support the constitution and laws of the Hawaiian Islands and bear true allegiance to His Majesty, Kamehameha IV.

Your inquiry is as to what effect this proceeding may have upon the status of Mr. Jones's American citizenship.

In becoming a citizen of the United States the law requires that an alien shall not only swear to support the Constitution and laws of this country, but also to renounce all other allegiance and especially that of the country of which he may be then a subject or citizen. In the oath taken by Mr. Jones there is no such express renunciation of his American citizenship, nor do the circumstances manifest any intention on his part to expatriate himself.

It may, however, at some future time, become a question for judicial investigation in his case.

The doctrine of the executive branch of the government on this subject is thus expressed by the Attorney-General—

> To constitute expatriation there must be an actual removal followed by foreign residence, accompanied by authentic renunciation of pre-existing citizenship. (8 Opinions, 139).

and this view finds support in some judicial decisions. (Juando *vs.* Taylor, 2 Paine, 652.)

In the absence of a direct judicial determination of the question I do not feel disposed to deny to Mr. Jones any right or privilege pertaining to his character of American citizenship, and therefore while the Department will not undertake to express any authoritative opinion on the effect which his course in Hawaii may ultimately have on his *status* in that regard, you are authorized to extend to him such protection as may be properly due to a citizen of the United States residing in and having acquired a commercial domicile in a foreign state. This protection must, of course, be limited and qualified by the liabilities and obligations incident to such commercial domicile.

I am, &c.,

FRED'K T. FRELINGHUYSEN.

No. 179.

Mr. Daggett to Mr. Frelinghuysen.

[Extract.]

No. 11.] LEGATION OF THE UNITED STATES,
Honolulu, September 20, 1882. (Received October 9.)

SIR: I have the honor to submit to you a few general observations concerning the political situation in these islands, and beg that they may be accepted less as the convictions of mature inquiry than as conclusions impressed by a brief residence here, conversations with representative men who assist largely in creating public opinion and in shaping political events.

The legislature of the kingdom adjourned some days before my arrival here. It seems to have been under complete native control; but this should be matter of little surprise, when it is considered that the natives numerically outnumber the white Americans and Europeans in the islands almost ten to one, and that the ballot is given only to native-born and naturalized citizens.

In electing members to the last legislature, two motives at least seem to have inspired the natives in securing control of that body. One was that a loan might be effected, and the necessary appropriations of public money made for the coronation ceremonies, now fixed for the 12th of next February; and the other was a desire to repeal the law, which has been long in force, prohibiting the sale of all intoxicating liquors to the natives. They claim that the law was many years ago enacted through what they call the missionary influence—an influence, I may remark, which for a long period shaped the legislation, and to a very considerable extent controlled the government of these islands, but which is now giving way before changed conditions and increased and constantly increasing commercial activities impatient of restraint. They also claim that the law has been to them a grievous humiliation, inasmuch as under it not only the humble native citizen, but native born ministers of state and other high officers of the kingdom, have been denied social and other privileges accorded to all others.

This law was finally repealed during the last legislature, and on and after the 1st of next month liquors may be sold to natives under certain restraints. I do not think the privilege will be greatly abused. The natives of these islands are a singularly tractable, light-hearted, noncombative, and law-abiding people, and, unlike the North American Indian and other meat-eating natives of colder climates, do not generally crave alcoholic stimulants.

The repeal of the liquor law, the voting of appropriations for the coming coronation ceremonies, and the authorization of a national loan of two millions of dollars may be regarded as the three most important measures of the last legislature. It is in connection with these that complaint of the opposition finds loudest utterance. * * *

The coronation expenses, I do not think, will exceed $50,000, unless the legislature should be convened in extra session, as is contemplated, which would result in an additional expense of perhaps $30,000. I am led to believe that His Majesty may be induced to forego the assembling of the legislature. Should this be the case, the expenses of the ceremony—already too far advanced in preparation to be indefinitely deferred without humiliation—will find partial compensation in a temporary increase in trade, and the general gratification of the native population.

* * *

The two-million loan, it is claimed, was not a necessity; but, as the entire amount is specifically devoted to the encouragement of immigration, to agriculture, to the construction of railways, to public buildings, and to internal improvements generally, it has something of a claim upon public approval. There can be little question, however, that the loan was authorized by a native legislature with the incentive and full knowledge that the burden of its payment would fall largely upon American and other foreign property-owners in the kingdom.

* * * * * * *

Taxation is light; the laws are well administered; life and property are as secure here as in any part of the civilized world; and with the advantages of the reciprocity treaty the general business of the island is fairly prosperous.

I have, &c.,

ROLLIN M. DAGGETT.

No. 180.

Mr. Daggett to Mr. Frelinghuysen.

No. 12.] LEGATION OF THE UNITED STATES,
Honolulu, September 24, 1882. (Received October 11.)

SIR: I have the honor to inform you that Hon. John Makini Kapena, postmaster-general of the Hawaiian Kingdom, has been appointed envoy extraordinary and minister plenipotentiary to the court of Japan, and will proceed thence at once by way of San Francisco.

The avowed purpose of his mission is to arrange for bringing Japanese laborers and their families to these islands—a project approved by the sugar planters' union.

I am, &c.,

ROLLIN M. DAGGETT.

HAYTI.

No. 181.

Mr. Langston to Mr. Blaine.

[Extract.]

No. 426.] LEGATION OF THE UNITED STATES,
Port-au-Prince, Hayti, December 17, 1881.
(Received January 3, 1882.)

SIR: I have the honor to advise you that on the evening of the 4th day of this month President Salomon left this city upon a short visit to Aux Cayes and Jeremie. His purpose was chiefly, as he stated, to visit the latter place, and, in person, express to the people thereof, whose property was very generally destroyed by fire occurring on the 29th of last August, and who have been therefore in a more or less needy and suffering condition for the past three months, his sympathy.

On his way, on the morning of the 5th instant, he landed at St. Marc, and there spent several hours in consultation with his officers and in receiving the people who flocked about him.

Three days thereafter, while the President was at Jeremie, an insurrectionary movement, led by General Désormes Gresseau, formerly the commanding general of the arrondissement of St. Marc, manifested itself in an attempt to take and hold the arsenal of that city. The arsenal was taken, but a loyal sentiment so generally prevailed among the people, and the soldiery behaved so gallantly, that it was soon retaken, and the rebels, who seemed not to number more than fifty or seventy-five, were driven from the city. In the fight several were killed, while five persons who were taken with arms in their hands were shot.

The government has announced that General Gresseau, who has been treated in many respects with kind regard by it, and who has several times in marked manner avowed his devotion to the President, doing so even so late as the 5th instant, took advantage of the fact that General Turenne Luvieux, at present the commanding general of the arrondissement of St. Marc, was sick, to make this movement. It is said, however, that although the regular forces and the national guard of neighboring arrondissements, at the announcement of this attempt of General Gresseau, offered their services at once to the authorities of St. Marc. Before their arrival General Luvieux, assisted by General Prudo, the commanding officer of the commune of St. Marc, had suppressed this movement.

The President in a proclamation addressed to the people and the army, published on the 11th instant, announces the suppression of this movement, compliments his officers and soldiers for their good behavior, declares the number killed and executed, and states that those immediately connected with the movement at St. Marc who have not fallen are in flight; but that the sword shall reach them.

This movement is treated by the government as having extended connections. Hence, besides declaring General Gresseau and sixteen of his companions in insurrection, now in flight as outlaws, to be killed whenever found, it has, by virtue of authority conferred upon it by the constitution and the law of the 13th of April, 1880, declared by its order published on the 11th instant that the arrondissements of Port-au-Prince, St. Marc, and Jacmel are in a state of siege; that is, are placed under martial law.

Many arrests have already been made in the arrondissements named, and it is altogether probable that others will be made from time to time for several days to come.

* * * * * * *

Notwithstanding the extreme dullness which continues to prevail in general business throughout this country at this time, the political excitement existing in connection with the pending canvass for members of the Chamber of Deputies, whose election takes place on the 10th of next month, and notwithstanding the natural feeling produced by the late insurrectionary movement and the action of the government taken in view thereof, on the part of the people, general quiet and good order seem to obtain, at present, in all parts of the republic.

I am, &c.,

JOHN MERCER LANGSTON.

No. 182.

Mr. Langston to Mr. Blaine.

No. 429.] LEGATION OF THE UNITED STATES,
Port-au-Prince, Hagti, December 28, 1881.
(Received January 12.)

SIR: I have the honor to advise the Department that since the outbreak at St. Marc, on the 8th instant, reported in my dispatch No. 426, of the 17th instant, the government has made many arrests in St. Marc, Jacmel, and Port-au-Prince. It may be that arrests have been made in other places. If so, this legation has not been advised thereof.

Many persons in the cities named, fearing arrest, some having been, in fact, connected with the movement at St. Marc, have taken refuge in the several consulates there situated.

On the 24th instant I received information from our acting vice-commercial agent at St. Marc to the effect that on the morning of the 23d, at four o'clock, he received into our agency, under his protection, three persons who had been connected with the St. Marc movement. I regret that Mr. Ricci, although he claims that these persons would have been immediately shot if taken, being among those who had been declared outlawed by the government, deemed it his duty to receive them. The government has already inquired of this legation as to their presence in the agency, and I have advised it that they are there. As yet, I am not informed as to its purpose with regard to action in that behalf.

I shall certainly insist that any step taken by it shall be in strict accordance with the laws and usage in such cases, and in due respect to the honor and dignity of our government.

Hereafter I shall take occasion to refer to this subject, and then furnish the Department copies of the correspondence that has passed between our acting vice-commercial agent, the Haytien Government, and this legation thereon.

I am, &c.,

JOHN MERCER LANGSTON.

No. 183.

Mr. Langston to Mr. Frelinghuysen.

No. 456.] LEGATION OF THE UNITED STATES,
Port-au-Prince, Hayti, April 15, 1882. (Received April 26.)

SIR: I have the honor to advise the Department that on the 12th instant the President of this republic, with the members of the cabinet, except the honorable secretary of state of the interior, Mr. Edward Pinckombe, who is at present quite sick, and with a considerable part of the army, left this city for Cape Haytien, where his excellency expects to remain for at least fifteen days.

This proceeding of the Chief Executive is rendered necessary in view of divers rumors of impending revolutionary movements reaching the capital from the northern section of the republic. By his presence and the display of his military power, in and about the Cape, it is believed that the President may anticipate and suppress any hostile movements

that may be in contemplation against the government, and thus prolong the present general quiet of the country.

During the absence of the President the general charge of the government has been placed in the hands of a special commission, composed of several prominent citizens and officers.

To-day quiet prevails generally throughout the country; and there are no apparent evidences of its early disturbance.

I have, &c.,

JOHN MERCER LANGSTON.

No. 184.

Mr. Langston to Mr. Frelinghuysen.

No. 461.] LEGATION OF THE UNITED STATES,
Port-au-Prince, May 5, 1882. (Received May 19.)

SIR: As you have been advised already by this legation, President Salomon is at present in Cape Haytien, called there by rumors from that quarter of the republic of impending revolutionary movements. Leaving the capital on the 12th ultimo, after making short stops at St. Marc and Gonaives, at both of which places he was received, as reported, by the local authorities and the people in the most enthusiastic manner, he arrived on the 15th of last month at the Cape. His reception there is not described in the journals of the country as even cordial. In Le Moniteur it is stated that he was met at the wharf by the troops of the garrison of the Cape, and that they and the troops who had arrived with his excellency paid their respects to him as he left the ship.

On the 16th ultimo, accompanied by his cabinet and Generals Tirésias Simon Sam, commandant of the arrondissement of Cape Haytien; Jean Jumeau, commandant of the arrondissement of Gonaives; Turenne Jean Gilles, commandant of the arrondissement of Port de Paix; St. Fleur Paul, commandant of the arrondissement of Marmelade; Seïde Télémaque, commandant of the arrondissement of Grand Riviere of the North, the President attended church at the Cape, where a grand mass was celebrated by the bishop of that place. Then, after a review of the troops and a circuit of the city, repairing to the palace, he delivered to an assembly composed of the civil and military authorities of the place the most remarkable discourse perhaps that has ever been pronounced in Hayti. A copy of this discourse as published in the official section of Le Moniteur of the 22d ultimo, with translation, is herewith inclosed and transmitted to the Department.

The circumstances which lead one to characterize this as a remarkable discourse are the circumstances under which and the place where it was pronounced, the extreme loyal sentiments which it contains, and the frankness and fearlessness of their utterance. Here for once the chief Executive of the republic meets the plotters of treason face to face in their strongest hold, and in manly earnestness declares his purpose to hold them in subjection and obedience to the law, compelling them to respect and observe the peace of the country. His interruption of the commandant of the arrondissement of the Cape, General Tirésias Simon Sam, and his severe indirect criticism and accusation of him in the midst of his friends and his soldiery, in the presence of many persons hostile to the present government, who would have been only too glad to secure

such a leader as that general, was not only courageous but under the circumstances as overwhelming as it was unexpected.

The demonstrations of assent and applause which distinguished the utterance of the extreme loyal sentiments of this address are in an important sense noteworthy. And it is true apparently that like assent and approval thereof prevail now among all classes of the loyal people throughout the country.

With regard to the substance of the address, it is only necessary to refer to the declarations that for two months past, while there has existed peace in all other parts of the republic, there has prevailed disturbance at the Cape; that the President seeks the cause thereof; that he will not leave until he finds and removes it; that he will not tolerate two states in the republic, but will maintain the national unity; and that the condition of the Cape is such, preventing the progress of the country so largely by hindering the government from giving attention to those things which concern the public administration, that it is intolerable.

After such examination of affairs at the Cape and thereabout as he deemed practicable, on the 23d of last month the President, by virtue of the power conferred upon him by the constitution and the law, put, by his order published in the official section of Le Moniteur of the 27th of last month, a copy of which with translation is herewith transmitted, the arrondissements of Cape Haytien, Trou, and Fort Liberté under martial law.

There have been arrested as concerned in revolutionary movements to be made at the Cape, some twenty or thirty persons, among whom, and the most prominent, is Senator Monpoint. It is reported that several persons who fear arrest have taken refuge in the consulates of the Cape, and that General Tirésias Simon Sam has been relieved of his command of the arrondissement. Such reports, while they need confirmation, are probably true.

It will be fortunate for this republic should the measures adopted by the government to secure good order and quiet at the Cape and in the surrounding country prove to be effective. Peace, good order, and industry constitute to-day the prime wants of the country.

At present six arrondissements of the republic are under martial law. In December last, the arrondissements of Port-au-Prince, Jacmel, and St. Marc were put in such state by order of the government, and in connection with a revolutionary movement, which was discovered on the 8th day of December last, at St. Marc, fifty-two persons, some at Port-au-Prince, some at Jacmel, and others at St. Marc, were arrested, who, during the last month, have been tried by a military commission, sitting at St. Marc. Six of these persons were released; six were convicted and sentenced to nine years' confinement each in the penitentiary; and forty were convicted and are condemned to death.

It is said by some that the government will certainly have these persons executed; by others a contrary opinion is entertained and as earnestly expressed. It is to be hoped that it may be found consistent with the peace and tranquillity of the country, and conservative of the good name and power of the government, to find another mode of disposing of such persons than execution.

I have, &c.,

JOHN MERCER LANGSTON.

[Inclosure 1 in No. 461.—Translation.]

Address of President Salomon at a public audience, held at the palace at Cape Haytien on the 16th ultimo, as published in the official part of Le Moniteur, April 22, 1882.

MY FRIENDS: It is eleven months only since I left the Cape, and here I am forced to return to this place. This time it is not for the pleasure of visiting you that I come here, but to perform a task which my duty as President of Hayti imposes upon me.

For about two months, in fact, the various reports which I have received have obliged me to give special watchful attention to the city of the Cape. The situation of this city is by no means satisfactory. While tranquillity obtains throughout the republic there is agitation at the Cape.

According to the report which is made me daily and what I know, I understand that there is something to be done here, and it is to do that that I am in your midst.

To-day I come to witness by view before acting. If there is a sore I will examine it, I will probe it; and be persuaded, my friends, that I will not quit the Cape until I have applied a remedy thereto. (Prolonged applause.)

Every time the courier arrives at Port-au-Prince from the Cape, I am forced to assemble my cabinet, and I never do so when I receive news from other parts of the country. The city of the Cape, then, is an obstacle, the only obstacle to the progress of the country. The city of the Cape alone hinders the progress of the entire republic, and seems willing to keep it in check. (Demonstrations of assent.)

Such a state of affairs cannot continue, and I come here, my friends, to put an end thereto.

All the troops of the department of the North are under arms, which brings to the public treasury outlays the more heavy as our present resources are very straitened.

It is impossible that a condition so abnormal should be prolonged. I, the President, will not allow that there be a state in a state. Made President of the Republic of Hayti and not of a part of the republic only, I will not allow for any reason that there be two republics in the country. I do not permit and will not allow that the national unity be severed. (Thunder of applause and prolonged vivats.)

The Cape hinders, arrests the progress of the country. Thanks to it, my government is absorbed in politics and is given no time to occupy itself, as it could wish, with the concerns of the public administration. Such condition is intolerable.

This is all I have to say to you to-day; very soon I will convoke you, my friends, and I will address you more at length. I do not do it at this time because I have not as yet had the time to examine well the condition. (Renewed vivats.)

After these expressions of his Excellency, the President of the republic, General Tirésias Simon Sam, commandant of the arrondissement of the Cape, employed the following words:

Truly, President, the Cape hinders and arrests the progress of your government. For three weeks we have been under arms, and it is only, thanks to our threatening attitude, that the enemies have not dared—— (Interruption.)

The PRESIDENT OF THE REPUBLIC. You speak of enemies, general, but you ought to know them, you ought to know why all the troops of your arrondissement are under arms. As for me, it is necessary that I know these enemies. Yesterday the magistrat communal, in wishing me welcome, spoke to me of the healthy part of the population; it is necessary that I know the unhealthy part. I have come here to know the whole and I will not leave you until I have known and regulated it. (Renewed applause and repeated cries of "Long live the President of Hayti!")

These utterances of his Excellency, the President of the republic, were warmly applauded by the assembly.

[Inclosure 2 in No. 461—Translation.]

ORDER.

Salomon, President of Hayti,

In view of articles 197 and 198 of the constitution and the law of the 13th of April, 1880, upon the state of siege;

Upon the advice of the council of secretaries of state;

Has ordered and does order as follows:

ARTICLE 1. The arrondissements of Cape Haytien, Trou, and Fort Liberté are declared to be in a state of siege.

ART. 2. The present order shall be printed, published, and executed by the secretaries of state, each in that which concerns him.

Given at the National Palace of Cape Haytien, the 23d day of April, 1882, 79th year of independence.

SALOMON.

By the President:
The secretary of state of justice and of worship, charged with the portfolio of the interior,
MADIOU.
The secretary of state of finances, commerce, and foreign relations,
DARNIER.
The secretary of state, of war, and of marine,
INNOCENT MICHEL PIERRE.
The secretary of state of public instruction and of agriculture,
FRANÇOIS MANIGAT.

No. 185.

Mr. Langston to Mr. Frelinghuysen.

No 463.] LEGATION OF THE UNITED STATES,
Port-au-Prince, Hayti, May 8, 1882. (Received May 19.)

SIR: I have the honor to advise you that President Salomon still remains at the Cape, making arrests of persons suspected of having been engaged in late contemplated revolutionary movements. The names of forty-three persons to be arrested are announced in Le Moniteur of the 6th instant, in an order published by General T. A. Simon Sam, commandant of the arrondissement of Cape Haytien. Such persons are not to be harbored and concealed, else those harboring and concealing them shall be treated as their accomplices and dealt with accordingly. Fourteen of these persons have already been arrested and are now lodged in prison in this city.

Troops are still being forwarded to the north, where the President seems determined to demonstrate and establish his power. Several regiments left here for such destination by steamer on last Sunday morning, others had preceded them the day before.

But to-day the subject which engrosses the attention of the people of all classes, and which casts a gloom over the capital, filling the entire community with sadness, is the intelligence, which has just arrived, that the government has had executed (shot) twenty-eight of the forty men lately convicted before a military commission, at St. Marc, of certain political offenses. Fourteen were shot at St. Marc, and fourteen at Gonaives. Few, indeed, if any persons, were prepared for such action, and the people are awestruck, they are filled with consternation in view of it. What the moral effect of such procedure will be no one can foretell. It seems now, however, that the President is determined to maintain the government, even at the expense, in the manner indicated, of the lives of such rebellious subjects of the country as disturb its peace and defy his authority.

I have, &c.,

JOHN MERCER LANGSTON.

No. 186.

Mr. Langston to Mr. Frelinghuysen.

[Extract.]

No. 465.] LEGATION OF THE UNITED STATES,
Port-au-Prince, Hayti, May 17, 1882. (Received June 23.)

SIR: On the 6th instant there was published in the official section of Le Moniteur an address delivered by President Salomon, at a public audience held by him at the Cape on Sunday, the 23d of last month. A copy of this address, with a translation, is herewith inclosed and transmitted to the Department.

Upon the perusal of this address, it will be perceived that the President undertakes, after stating that wellnigh all the acts of his government have been misinterpreted at the Cape, to explain and justify the conduct of his administratisn, dwelling, as he classifies the various topics of his discourse, upon his circular No. 548, dated February 18, 1882, in which he advised the people to cultivate the soil; the expenses and annoyances occasioned by the conduct of certain wicked persons of the Cape; the non-acceptance of the bank by such persons, as advancing the financial condition of the country; the men of the Cape who foolishly feel that they are strong; the absurd idea of certain disloyal persons of the Cape who pretend that he seeks to have himself made emperor; the high honor that has been done him already, in applying to him the title of "father of the country"; the pamphlet of Jacot, an infamous paper, which he characterizes in severe terms of condemnation; the opinion entertained of the national money by certain persons at the Cape, and finally renewed reference to his circular, which is more fully explained and approved. Then, after assuring the people that he has come to the Cape to tranquilize the northern part of the country, and urging them to aid him in this behalf, he advises that it would not be well to arouse the popular wrath by firing a shot at the Cape, for no general, not even the President himself, would, in such event, should he desire to do so, be able to stay the chastisement which the people would inflict upon that rebellious city. Concluding, he exhorts the people to assist him in his work of pacification; to be his disciples, and proclaim everywhere peace, union, and concord.

* * * * * * *

I have, &c.,

JOHN MERCER LANGSTON.

[Inclosure in No. 465.—Translation.]

Address of President Salomon delivered on the Champ de Mars, at Cape Haytien, on Sunday, the 23d day of April, 1882, *as published in Le Moniteur of May* 6 *last.*

MY FRIENDS: When, eleven months ago, I quitted the Cape at the end of a grand tour, I did not think that I would have to return here so soon. After I had accomplished throughout the country two grand successful tours, I felt that I had the right to remain some time at Port-au-Prince occupied with the affairs of public administration. But no; the Cape was opposed thereto. The Cape is a center of conspiracy and disorder the Cape is a center of disturbance and of anarchy.

The entire republic is tranquil; the Cape only protests against this tranquility; either directly or indirectly, the Cape hinders the progress of my government and is the object of all its cares.

The city of the Cape wishes to establish a state in the state; I will not allow it; I

will not permit it. Far be it from me to accuse all the people of the Cape. No; I know how to separate the good grain from the tare; I would render full and entire justice to the healthy part of the population, but let those who at the Cape are against my government know that I cannot submit myself to their will to satisfy their wishes without dishonoring myself; let them know that it is my duty to compel respect for the laws and cause them to be respected by all. This duty I will fulfill to the end.

Almost all the acts of my government are misinterpreted at the Cape.

MY CIRCULAR.

The circular which I had addressed about three months ago to my commanders of arrondissements has been well accepted everywhere except at the Cape; it has found at the Cape traducers. They have sought to make the impression that I was treating the people as idlers in having counseled them to go to cultivating the soil in order to increase their revenues and establish their well-being. Well, as for me, my conviction is that my circular is one of the wisest acts of my government; one of those acts which honor a chief of state.

I know all those here who seek to overthrow my government. Yes, I know them! Let those who feel that the cap fits them wear it.

I have come to the Cape to proceed vigorously against those who wish to trouble in any and every case the public order. I shall not leave without having regulated their condition; I say it loudly; it shall be to my disgrace if I go hence leaving the Cape in the condition in which it is found at this moment.

THE OUTLAYS AND ANNOYANCES OCCASIONED BY THE CAPE.

My friends, I have come this time to break all horns—to chastise all factionists; the men who occasion such sacrifices to the public treasury.

To cite only a part of such sacrifices, understand, my friends, that the two ships which have brought me and my troops here cost the state $500 per day. Calculate and you will see that $500 represent more than eight months of salary of a general of division. And such is the unfortunate state of things at the Cape, that if I had been susceptible of emotion I would have been here some several weeks since, for the news which has reached me has been of the most alarming sort.

The propaganda which organize themselves here have undermined credit and thrown into dismay the higher branches of trade which I know to be very much attached to my government, because it is believed that I am an honest man.

I say misfortune to the Cape if there is fired from here a single shot. Such shot would be the signal of massacre and incendiarism; and I will add, for I ought to tell you the truth, my friends, it would be the signal of pillage, for the entire republic is in anger against the Cape and has wrathful looks towards it.

I repeat to you, my friends, I have come to do justice, and in such justice I will separate the goats from the sheep, for if there are evil-doers here, there are good citizens.

Do you wish to have, my friends, an idea of the injury which the factionists of the Cape do us, marching in accord with the factionists who are found abroad? Listen. Negotiations had been commenced abroad in the interests of the state; they were interrupted at the news that the Cape was going to take up arms against my government.

Work upon a railroad from Port-au-Prince to the lake had been retarded by reason of the same reports; and observe, my friends, that this same response was made us by all those with whom my government had commenced negotiations with a view to the advancement of our country.

Is such situation acceptable, and has the time not come to finish with those who have brought it about? What evil have I done, then, to these evil-doers at the Cape?

The Cape has been treated by my government as a spoiled child, as a preferred child. Have I not done more for the Cape than for any other part of the country, than for Aux-Cayes for example? I mention Aux-Cayes because it is my native city; there all my affections are found; there my family and all my interests are found.

THE CAPE AND THE BANK.

The bank, accepted by all as a source of benefit, is discredited at the Cape. Why? Because the bank established order and regularity in our finances; because with the bank there are no more jobs, no more thefts; because it thwarts all those who were in the habit of making of the public treasury their private treasury; because the bank cuts off the means of living to all lazy persons who would enjoy life without labor. They have permitted themselves to say that the bank has made no change in the financial condition of the country. The bank has up to this time furnished the funds for the various services, and more particularly for that of the army which ought to be paid by privilege and by preference, and the preference explains itself.

Soldiers! You who are always in requisition (au four et au moulin), as they say, is it not just that you should be paid before the employés of the civil order? The money has been sent here to pay you; if you have not been paid for such month, it is because the money which I sent you has been employed for the payment of other persons.

I ought to say, nevertheless, in extenuation of the incorrect conduct of the paymaster, that nothing proves up to this time that he has diverted anything to his own profit; his offense consists in having made a false application of the funds which he had received. If this act is repeated the employé shall be dismissed and punished. A commission now examines the accounts of the paymaster.

I have the consciousness that I have done everything which was possible to prevent the Cape from suffering. What has been my surprise, then, my dissatisfaction on arriving here, to understand among other things that there are due three payments at Fort Liberté. I have just explained to you the cause of this.

Then there is nothing which I have not done to give satisfaction to the Cape. I have done more still always to be agreeable to this city; I have taken from its midst three of its sons to constitute my ministry, composed of five members. Well, interrogate these three children of the Cape; they will tell you how they are chagrined, humiliated by the conduct of the Cape. (Demonstrations of approbation.)

The Cape is a black point for the republic. The Cape is an obstacle to its onward march.

THE STRONG MEN OF THE CAPE.

Once more, my friends, in speaking as I do, I only undertake to speak of wicked persons, the disturbers who are in your midst and whom you know. Here there are men who believe and who say they are strong. Well, those men deceive themselves; they are not strong as I, and I will prove it by breaking all the horns so lofty as they may be. Yes, my friends, I say I am strong because I know I am supported by you; because I know I am able to count upon the valorous swords of you all, my lieutenants who stand around me, of you all, my commanders of arrondissements, because I feel that I am supported by the bayonets of the army and by the love of my fellow-citizens.

I have preached union and concord. I have always and without ceasing preached them. For that my enemies have said that my language was that of fear or weakness; others even see therein nonsense. Having charge of the people, I have no right to be weak; I am not vulnerable to fear. I foolish? Permit me to believe that I am not.

The enemies within and without have made haste to circulate the report that I had given order to General Tirésias Simon Sam to arrest certain persons, and that he had refused to obey. Be convinced that a general to whom I may have given order to arrest any one, will execute such order. They say besides, these enemies, that I have given order to recruit and that my lieutenants have refused to do so. Error again. When I shall give order to recruit they will recruit.

THE CAPE AND THE EMPIRE.

In their propaganda the wrongdoers have said that I wish to have myself proclaimed emperor. (Great sensation and movements of attention.) To have myself proclaimed emperor: this would be the act of a fool or an imbecile. I am neither a fool nor an imbecile!!!

At the moment when empires are crumbling, is this the moment in which I would determine to have myself proclaimed emperor? No; I am not capable of such folly, of such ridicule. Everything admonishes us that empires have finished their terms.

If in 1848 it was an error to found an empire in Hayti, to-day this would be insanity. As strong as I am as President, so weak I would be as emperor. The title of emperor, far from strengthening me in the esteem of my fellow-citizens, would cause me the loss of it. Named emperor to-day, I would fall to-morrow.

My friends, you have already wrought for me a very much more beautiful crown, much more rich than that of all the emperors of the world—a crown which even very few emperors wear, so precious is it. This crown you have awarded me in calling me the father of the country. (Prolonged applause; cries of long live the father of the country.)

Chief of state, am I not really the father of you all? Follow well my conduct and you will see that since I have been at the head of the country, I only cause my presence to be felt as a father. I only cite one example, and especially in response to—

THE PAMPHLET OF JACOT.

In this infamous writing, Jacot says that I have refused to fire cannon to purify the atmosphere during the epidemic. Notwithstanding my modesty I have been obliged to publish in the Official Journal numerous documents proving the contrary.

You have read them, even you. I have done more; I have gone into the hospitals,

and sometimes even with my wife, to visit persons with smallpox, talking to them, seeking to draw from them a smile in the midst of their sufferings, and giving them aid and consolation. It was necessary to gird up ones loins to remain in the midst of men in whose faces there remained nothing human, and nevertheless I did it, and I did it with pleasure, because I felt myself rather the father than the chief of my fellow-citizens. What chief of state in Hayti has done that which I have done in this regard?

Such are the infamous things which they dare to publish against me. So I ought to count, officers, soldiers, that when I shall undertake to punish these wrongdoers, to crush their heads, I will find you on my side. (Hurrahs.)

What I have done is not for me, nor for fame, for I have enough glory of you, yourselves; what I do is for you, my friends.

I am old; you are young. I myself go; you yourselves remain. It is for you who remain that I consent to be at your head, laboring to escape the misfortunes which the enemies would call upon the fatherland. Yes, it is for you that I have made the sacrifice upon the altar of the fatherland of all hatred, of all ill-will; it is for you, and by love for you, that I consent to forget all that I suffered during twenty years of exile; to preoccupy myself only with the progress of the country, and with the good of my fellow-citizens.

THE CAPE AND NATIONAL MONEY.

Another perfidy. I have given money to the country. It is the best national money we have yet had in Hayti, or rather it is thereof the only good. On one side of this money the arms of the republic are found, on the other the head of a female. Would one believe that the idle of the Cape, the jobbers and agitators of this city, are taking advantage of this portrait to create a propaganda against my government? They say that I have put upon one side the portrait of my wife, who is white, which signifies that I wish to sell the country to the whites. (Prolonged laughter.)

They say this, these idle, vicious persons, because I have taken from them the keys of the public treasury. But how can this portrait be the likeness of my wife when it has for a head-dress a handkerchief? Do we not know that white women do not wear a handkerchief; that they wear only hats and hoods?

It is true that the Haytien women imitate them much, for some time in wearing also hats and hoods. I find myself that it is an error according to me, nothing is better for a Haytien woman than the handkerchief. (Renewed laughter.)

AGAIN MY CIRCULAR.

The treacherous here leave no stone unturned. I explain in my circular why coffee has fallen to so low price—many of the countries which had not been producers thereof, produce it to-day, in abundance; and the more merchandise abounds in the market, the less one demands it, and the less one finds purchasers. On the other side, according as the production of coffee is increased abroad, they invent machines for its preparation; hence, not only do these countries produce more coffee than we, but, besides, their coffee is better prepared than ours.

These causes are the only ones which operate to depreciate our coffee abroad. To improve its price I have striven to give you advice; I have told you our fortune lies in the earth; that nine merchants out of ten fail, although they never fail who work the soil. I was not content with these counsels alone; I offered the example of working myself the soil. It is, besides, my trade. At Kingston during my exile, I only did this, and I did well thereby. Well, they have said here that it is because of contempt for you that I have advised you to work the soil. Ah! it is necessary that I chastise these wicked persons of the Cape.

But to resume, my friends, I will tell you that I have come here to reassure the country; to reassure the inhabitants and the honorable fathers of family of the Cape. I have come to reassure those who possess as well as those who do not possess, but who wish to work honestly to make for themselves a position. I have come to reassure the commerce, the higher branches of trade especially—that is to say, that part of the commerce composed of men who have left native country, family, to come to establish themselves in Hayti. I have come here to reassure the world, and permit me to say, that I am persuaded that you will all aid me to attain this end. (Yes, yes!!)

Ah, let us avoid, yes, let us see to it that not a shot is fired at the Cape. Blood which flows from the explosion of powder is a drink very intoxicating. When one has commenced to drink it he experiences a devouring thirst. If, then, a gun is fired at the Cape I shall be impotent to stay the evil. In attempting to stay it, I would die, perhaps, even myself; I tell you this from experience.

My father was the most popular man of his department. A government to have been unjust towards him, to have exiled him, had not been slow to recognize this popularity.

At the voice of my father, in 1483, all the department of the south was on foot and in

arms in less than eight days. Well, when I had seen in 1844 and in 1848 those men who obeyed as by enchantment the voice of my father, both he and I feared them, for those men were in anger, and a moment had arrived in which we would have been crushed by them if we had counseled them moderation. Let us then be careful not to provoke the anger of the people.

When I speak our enemies say that these are menaces for the purpose of causing fear. Nevertheless, that which I say is not to intimidate but to admonish; I know the history of my country.

You, General Joseph Edward, do you not know that they were angry with you for not having, when you occupied in military manner the Cape in 1879, permitted the sacking of the city? (Demonstrations of approval.)

At the present time, if a gun is fired at the Cape, no general, whoever he may be, and even the President of Hayti, will not be sufficiently powerful to make opposition to the chastisement they would seek to inflict upon the rebellious city. All those who would attempt to make opposition thereto would be very quickly whitened. (Great hilarity.)

You all, my friends, who are of the conservative party—you all fathers of family; you especially who have interests at the Cape, and who wish to preserve them, be my apostles. There are some deaf, but perhaps they will be able finally through you to hear.

My friends, I pray you thereof, I conjure you, I adjure you, aid me in the work of pacification which I have pursued since my advent to power. Be my disciples, preach to all, and especially, peace, union, and concord. (Repeated vivats, numerous cries of "Long live the President of Hayti.")

No. 187.

Mr. Langston to Mr. Frelinghuysen.

No. 466.] LEGATION OF THE UNITED STATES,
Port-au-Prince, Hayti, May 17, 1882. (Received, June 23.)

SIR: I have the honor to transmit, as herewith inclosed, a statement with translation, as published in the official section of Le Moniteur of the 13th instant, with respect to the execution of twenty-eight persons, among others, tried, condemned, and sentenced to the punishment of death by a special military council sitting at St. Marc, on the 15th of April last; whose proceedings in the premises were sustained by sentence of the council of revision of the department of the Artibonite, on the 29th of April, 1882.

No official statment other than this as regards this affair has as yet been published. It is reported, as matter of rumor, that very soon the government will make a full and explicit account, covering the facts and law in the case, which will justify its entire action. Such account is awaited with no little anxiety by a very considerable proportion of the Haytien people, who recollect that the twenty-fourth article of the first title of the constitution of 1879, under which General Salomon was made President, declares that—

> The punishment of death shall be restricted to certain cases which the law shall determine. As to political affairs, it is abolished and replaced by perpetual detention in prison.

As regards the number of persons executed, and the circumstances of their execution, this affair exceeds by far anything of the kind recorded in Haytien history. On the 3d of September, 1860, there was an execution of sixteen persons who had been charged and convicted of the assassination of the daughter of President Geffrard and of attempts to overthow the government. Here, however, are twenty-eight persons executed, fourteen in one place and fourteen in another, as charged and convicted before a military commission of an attempt to overthrow the

government, under a constitution, which prohibits the punishment of death for political offenses.

Among those executed at St. Marc, on the 5th instant, is Charles Duquéné Fournier, with respect to whose citizenship I had the honor to address the Department, in my despatch No. 439, dated February 23, 1882.

I have, &c.,

JOHN MERCER LANGSTON.

[Inclosure in 466.—Translation.]

EXECUTIONS AT ST. MARC AND GONAIVES.

[From Le Moniteur, May 13, 1882.]

On the 15th of April, 1882, 79th of the independence.

The special military council sitting at St. Marc, duly organized, in consequence of the taking up of arms, which took place on the 8th of December last, condemned to the punishment of death, among other persons, the following: 1, Mentor Nicolas; 2, Mathurin Lys; 3, Elogie Guillouette; 4, Maurille Lafontant; 5, Klenor Hyacinthe; 6, Petion Avin; 7, Achille Jules, surnamed Lamay; 8, Jean Baptiste Codio; 9, Succes fils; 10, Charles Duquéné Fournier; 11, Georges Haentjens; 12, Charles Alexis Potavin Gresseau; 13, Alexis Loulon; 14, Prosper Bellanton; 15, Theophile Parisien; 16, Mesmin Alexis; 17, Marie Antoine Montholon Perpignaud; 18, Jean François Bayard fils; 19, Altémar Bordes; 20, Camille Thomas; 21, Ocean Prosper Faure; 22, Fleurian Jonathas; 23, Obrient jeune; 24, Joseph Dasuy Latortue; 25, Manassi Cinnatus; 26, Leonidas fils, surnamed John Perpignaud; 27, Petit Bois Gomail; 28, Granville Saint Victor.

The above judgment dated and pronounced by the special military council of St. Marc, was sustained by sentence of the council of revision of the department of the Artibointe, the 29th of April, 1882.

May 5, 1882, at 9 o'clock in the morning, the condemned: 1, Mentor Nicholas; 2, Mathurin Lys; 3, Elogie Guillouette; 4, Maurille Lafontant; 5, Klenor Hyacinthe; 6, Petion Avin; 7, Achille Jules, surnamed Lamay; 8, Jean Baptiste Codio; 9, Succès fils; 10, Charles Duquéné Fournier; 11, Georges Haentjens; 12, Charles Alexis Potavin Gresseau; 13, Alexis Loulon; 14, Prosper Bellanton, were executed publicly at St. Marc.

May 6, 1882, at 9 o'clock in the morning, the condemned: 1, Thophile Parisien; 2, Mesmin Alexis; 3, Marie Antoine Montholon Perpignaud; 4, Jean François Bayard, fils; 5, Altémar Bordes; 6, Camille Thomas; 7, Ocean Prosper Faure; 8, Fleurian Jonathas; 9, Obrient Jeune; 10, Jn. Joseph Dasuy Latortue; 11, Manassi Cinnatus; 12, Leonidas fils, surnamed John Perpignaud; 13, Petit Bois Gomail; 14, Granville Saint Victor, were executed publicly at Gonaives.

No. 188.

Mr. Langston to Mr. Frelinghuysen.

No. 467.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, May 19, 1882. (Received June 23.)

SIR: I had the honor, by my dispatch No. 456 of the 15th of last month, to advise you of the departure of President Salomon for Cape Haytien. I have the honor, now, to announce his return to Port-au-Prince, after an absence of thirty odd days, during which time he has been as far northward as Monte Christe, where the Dominican local authorities are said to have paid him their cordial respects.

The principal part of this time, however, he spent in the Cape investigating, with the local authorities of the place, the revolutionary con-

dition of that city and neighboring region. The result of such investigation seems to have been the placing of the Cape, Fort-Liberté, and Trou, under martial law, according to the act of the 13th April, 1880, which confers the authority, in that behalf, upon the President of the republic in case of civil troubles or imminent invasion by a foreign power, and the order of arrest of forty-two persons charged with complicity in the civil troubles existing in that section of the country, and who, under the act referred to, if arrested, are to be tried by military commission like that recently sitting at St. Marc.

Of the forty-two persons whose arrest the government at present seeks, twenty-nine have been already taken and put in prison in this city. Fifteen of them were brought by the President on his return.

The President arrived at the capital at 7 o'clock on the morning of the 18th instant. His reception was cordial and enthusiastic; the army and National Guard being represented in large numbers; and the people, though the hour was early, making their appearance in thousands and behaving themselves in most seemly manner. The debarkation of the President, his march to and attendance at the cathedral, where a Te Deum was celebrated, his departure thence, his tour of the city, and his arrival at the National Palace, where he is said to have pronounced briefly to those about him the most assuring words, were all signalized by military display and popular demonstrations of the most flattering sort. It is claimed that his reception on this occasion is without parallel in the history of this country.

At this writing the tranquility of the country is nowhere disturbed. The quiet is, in fact, profound, but of such character as to compel the feeling whether it may not be ominous of early and dreadful outbreaks as has been the case so many times heretofore in the experience of past administrations of this country.

I have, &c.,

JOHN MERCER LANGSTON.

No. 189.

Mr. Langston to Mr. Frelinghuysen.

[Extract.]

No. 468.] LEGATION OF THE UNITED STATES,
Port-au-Prince, Hayti, May 20, 1882. (Received June 23.)

SIR: I have the honor to state that since writing my dispatch yesterday, No. 467, in which I refer among other things, in dwelling upon the President's return to the capital, to his having delivered a brief address at the National Palace, such address has appeared in L'Œil of this date. This journal is semi-official, and in its political character and relations a stanch and reliable representative of the administration.

As being the very last utterance of the chief executive, embodying his views with regard to the present condition of affairs in the department of the Artibonite, the north, and the northwest, his purposes and plans for the future in dealing with those who disturb the public peace, as well as his opinion of those persons who, having learned, it may be incorrectly, of his determination and order to arrest some two hundred men and one hundred and fifty women in Port-au-Prince, have left the

country within a few days to seek protection in foreign countries. I have the honor to transmit, as herewith inclosed, and as published in the L'Œil of to-day, the President's address, with translation.

It will be perceived that the extreme sentiments of this address, like those of the two discourses delivered at the Cape, seem to have been received with the most cordial applause. It may not be amiss, in this connection, to state that of the forty men condemned at St. Marc by military commission twelve are as yet undisposed of. In a brief editorial article L'Œil of this day explains why these persons have not been executed, quoting, in support of its statement in this regard, the terrible words, as it characterizes them, employed by the President himself on last Tuesday at St. Marc. For some time past, in fact for the last three years, pamphlets written and published by persons hostile to the present government, in exile at Kingston, Jamaica, or St. Thomas, containing treasonable sentiments, violent criticisms of the government, and aspersions of its personnel, tending to bring it into contempt and to destroy its authority, have been sent from the places named and put in circulation in this country. Such a pamphlet is that of Jacot, mentioned specially by the President in his second discourse at the Cape.

L'Œil states, as translated, that "each pamphlet sent into Hayti will provoke the execution of one of those condemned to death by the special military council of St. Marc"; and adds that the "advertisement is positive."

These men seem, then, to be held in pledge as hostages for the good behavior, in the respect indicated, of persons in exile, who have heretofore occupied themselves in writing against the government.

While it is true that the President does not refer in terms, in his speech herewith transmitted, to this particular topic, its general scope and drift would seem to cover it. He says he has been pressed to extreme measures, and since he has commenced he will continue.

* * * * * * *

I have, &c.,

JOHN MERCER LANGSTON.

[Inclosure in 468.—Translation.]

Address delivered by President Salomon, at the National Palace on the 18th instant, as published in L'Œil of May 10, 1882.

My Friends: I have only a few words to say to you. The tour which I have just made in the department of the Artibonite, the north, and the northwest has been very fortunate and has produced very good results.

I speak to you to-day with the most profound conviction that the City of the Cape will cease henceforth to be the object of all the efforts of my government. I have established order everywhere, and I have left everything in good order. I answer now for peace throughout the entire republic.

I have been pushed to extreme measures. Well, since I have commenced I will continue. (Prolonged applause. Numerous cries of "Long live the President of the republic. Long live the father of the country.")

Peace is necessary for us, cost what it may. It is necessary for us, my friends, because it works the good of the people. (Prolonged hurrahs.)

On reaching St. Marc I learned that several persons had escaped from the capital under pretext that they would be arrested. I find that these persons did wrong to go abroad, or rather if they have gone it is because they are sensible of their guilt.

It is said that I return to the capital with the purpose to arrest two hundred men and one hundred and fifty women. I need not tell you that there is nothing of the sort, my friends. A conspiracy having been discovered, justice institutes inquiry, and investigation will follow its course.

My government will do everything by the law and with the law. Only, for certain of our fellow-citizens, it is necessary to hold the balance with a firm hand. But I

promise you, my friends, that all the acts of my government shall be based upon the law, and nothing shall be done without it. (Renewed hurrahs.)

It is useless to tell you what I have done during my tour; you have already read the accounts of my voyage as well as my last discourses.

I am truly happy to find the capital again in perfect tranquillity. I thank very sincerely all my fellow-citizens who have contributed so resolutely to the maintenance of the public peace. (Numerous cries of "Long live the father of the country.")

No. 190.

Mr. Langston to Mr. Frelinghuysen.

No. 492.] LEGATION OF THE UNITED STATES,
Port-au-Prince, Hayti, July 13, 1882. (Received July 29.)

SIR: I have the honor to transmit, as herewith inclosed, published in the official section of Le Moniteur of the 6th instant, a circular, with translation, addressed by the honorable secretary of state of justice, Mr. Madiou, to the commissaries of the government of the civil tribunals of this republic, dated June 24, 1882, concerning the frequent reclamations lately presented by ministers and consuls of foreign powers accredited near the Haytien Government, on behalf of foreigners located in various parts of this country, who have been subjected to maltreatment. Being desirous of avoiding all such reclamations, the government asks that in case of strife between Haytiens and foreigners, and in case of offenses committed by foreigners, the officers addressed dealing therewith shall observe every precaution and shall comply strictly with the law. It is said by Mr. Madiou that in case of arrest no insulting word, no threat, no brutality should be employed; that the law should be the guide of the officer invariably; and in cases not requiring prompt action, nothing should be done till after the superior authority has been consulted. The provisions of this circular are to be observed by the judges of the peace, by all agents under their control, and by all having to do with the judical police.

The purpose of this circular is good; and in view of recent occurrences of the character indicated, brought to the attention of the government, considered and adjusted by it, in some instances by the payment of considerable indemnity, its publication would seem to be necessary.

It is only within a few days that a commissary at St. Marc committed a most intolerable outrage upon a British subject, the settlement of which cost the government $500. In this case, for some reason or other, as report gives it, the person maltreated was invited into the office of the commissary, where he was insulted, and when he would leave was ordered to remain, and when he persisted in going was ordered under arrest, and in rough and brutal manner was finally hurried off to prison, where he was detained for five days without charge of any sort being made against him. It would seem that this proceeding was had simply to gratify the bad feeling and designs of the commissary, whom the government at once dismissed in utter disgrace and had imprisoned.

It is a matter of gratification that not many such occurrences have taken place in connection with American citizens residing in this country during the past four or five years.

I am, &c.,

JOHN MERCER LANGSTON.

[Inclosure in No. 492.—Translation.]

PORT-AU-PRINCE, *June* 24, 1882.

Seventy-ninth year of the Independence. Section of Justice.

[Circular.]

The secretary of state of the department of justice to the commissaries of the government of the civil tribunals of the republic.

MR. COMMISSARY: For some time frequent reclamations have reached us from ministers and consuls of foreign powers accredited near the Haytien Government, for bad treatment of foreigners located in various parts of the republic.

Desirous of avoiding all reclamations of this character, the government invites you, in cases of strifes between Haytiens and foreigners and of offenses on the part of the latter, to take every precaution, and to comply strictly to the law.

No reproachful word, no threat, no brutality should be employed at the time of arrest for crime, misdemeanor, or offense. The law, Mr. Commissary, ought to be invariably your guide, and in cases not requiring prompt measures you should act only after you have made reference thereof to the superior authority, except it being well understood in cases of flagrant misdemeanor.

You will transmit instructions in this sense to Messrs. the judges of peace of your jurisdiction, who on their part will cause the provisions of the present circular to be observed by all the agents put under their orders and having to do with the judicial police.

Acknowledge to me the due reception of the present, Mr. Commissary, and accept the assurance of my very distinguished consideration.

MADIOU.

ITALY.

No. 191.

Mr. Marsh to Mr. Frelinghuysen.

[Extract.]

No. 1015.] LEGATION OF THE UNITED STATES,
Rome, January 10, 1882. (Received February 2.)

SIR: On the 31st of December last their Majesties the King and Queen of Italy gave to the diplomatic corps at this capital a formal reception in the mode prescribed by the new ceremonial for the New Year's festivities. In the reign of Victor Emanuel, and before the creation of a corps of ambassadors at Rome, the chiefs of mission were received individually in audience, first by His Majesty and then by the crown prince and princess, the latter being attended by the ladies of her court; and on a subsequent day the secretaries of legation and the ladies of the diplomatic corps were all received at the same time by the crown prince and princess. By the present regulations, all the members of the diplomatic corps, of whatever rank, of both sexes, are received together by the King and Queen, who pass around the circle in opposite directions, each addressing a few words of compliment to all the chiefs of missions, the King conversing more or less with all the members of the corps.

The Emperor Napoleon III was in the habit of availing himself of these occasions for alluding to threatened or desired political events, and for hinting at the probable policy of France in respect to them. An expectation had been excited that the King of Italy, in imitation of the Emperor of the French, would take this opportunity to make some disclosures in regard to the possible results of the late visit of their Majesties at the court of Vienna, and to the relations between Italy on

the one hand and the German Empire and the Papacy on the other. These expectations were disappointed. His Majesty was silent on these subjects, and as no official declarations of any importance have been made in reference to these questions, the public anxiety in regard to them has greatly increased.

* * * * * * *

The difficulties between France and the other European as well as Mussulman states augment the chances of collision, and in my long political experience I have seen no crisis in the public affairs of Europe which seemed to me to threaten more serious evils to the cause of modern civilization than the complications which present themselves at the beginning of the present year.

Although American courts may perhaps in some circumstances take notice *ex officio* that there are elsewhere institutions claiming, by prescription or otherwise, the right to exist and to discharge important functions independently of legislative authority, yet, as according to our generally accepted elementary law, no such bodies can permanently exist on our soil except as creatures of the state and as in all things subject to its control, we are at present exempt from those conflicts of jurisdiction which have so often, in European countries, shaken organized society to its very foundations. But like claims may, possibly, at some future day be advanced among us and with similar results. However that may be, the rapid extension of our commerce and of our political influence cannot fail to bring us in contact with conflicting interests, and our foreign relations will hereafter demand a much larger share of the attention of the Federal Government than they have hitherto done. We are not, indeed, necessarily involved in the complications which are now threatening the peace of the Old World, yet it will be very difficult in practice to avoid entanglements more or less serious, though it is to be hoped that the vastly greater interests of our internal commerce, industry, and government may not be sacrificed to considerations connected with our foreign policy.

I have, &c.,

GEO. P. MARSH.

No. 192.

Mr. Marsh to Mr. Frelinghuysen.

[Extract.]

No. 1016.] LEGATION OF THE UNITED STATES,
Rome, January 30, 1882. (Received February 16.)

SIR: At the reopening of the Italian Parliament after the New Year's holidays, the expected inquiries into the state of the foreign relations of Italy were made by General Ricotti and replied to by Mr. Mancini. In the mean time the public excitement had partially subsided, or rather been calmed, * * * and the parliamentary debate on the subject was neither general nor animated. So far as the actual condition of the international relations of the parties were concerned no new disclosures were elicited. The attention of the Italian public is easily diverted * * * and a recent transaction in the journalistic world, avowedly a mere banker's speculation, but which is suspected to have, and perhaps actually has, a real political significance, engrosses public attention to the exclusion of topics certainly important. An Austrian subject by birth, but naturalized in Italy, has lately purchased a controlling inter-

est in five or six of the principal journals of Rome, including the Diritto, the most important semi-official organ of the administration. Many believe that the purchase was made in behalf of the French Government with the view of influencing public sentiment in Italy towards France; but as the principal writers in the columns of these papers have withdrawn from their editorial corps and established new journals, the movement is likely to prove a financial if not a political failure. At the same time a good deal of alarm is excited by the general monetary crisis throughout the continent, though the public funds of Italy have suffered less depression than those of most other countries. Still it will probably interfere with the resumption of specie payment in Italy, which was making good progress, though not yet legally accomplished.

To these causes of anxiety must be added, besides those alluded to in my dispatch No. 1015, the overthrow of the Gambetta cabinet in France, the revolt in the Christian provinces of Turkey occupied by Austria under the treaty of Berlin, the threatened collision between Great Britain and Spain in the Island of Borneo, and disquieting circumstances in other parts of the Old World. Some of these difficulties at hand, it is greatly to be feared, will not be settled without resort to hostilities, the extent of which cannot be foreseen; and I must repeat what I said in my dispatch 1015, that in my long experience of public affairs I have never seen the political horizon of Europe in so disturbed and so menacing a state.

I have, &c.,

GEO. P. MARSH.

No. 193.

Mr. Marsh to Mr. Frelinghuysen.

[Extract.]

No. 1023.] LEGATION OF THE UNITED STATES,
Rome, April 19, 1882. (Received May 9.)

SIR: I have forwarded to the Department of State several copies, in newspaper and pamphlet form, of the remarkable financial exposition recently made to the Italian Parliament by the minister, Magliani. It is a document of uncommon ability, and presents an unexpectedly encouraging view of the condition of the national finances, and of the success with which they have been administered during the past year. Whether the anticipations of the minister will be realized to their full extent is, at the least, doubtful.

The journals of the opposition are already predicting that, though large loans have been negotiated for the purpose of facilitating the resumption of specie payment, the measure will not really be effected during the present year. It is easy to imagine that a failure of the crops for the coming season may occasion serious embarrassments, which may be augmented by foreign financial measures or political complications. These, however, are not matters of calculation; but though the efforts of European governments have succeeded, for the present, in allaying many threatening symptoms of popular disquiet, yet the causes of this disquiet still subsist, and it may at any minute burst into violent eruption. The immediate danger to Italian finances is that Parliament may be compelled by local influences to commit itself to enterprises in the way of internal and municipal improvements which, if not altogether

visionary, do not promise to be, at least at present, remunerative. Add to this the enormous expenditure which is already more or less urgently demanded in military circles for the purpose of national defense, and it will be seen that the Italian exchequer may be soon subjected to drafts beyond its capacity to meet.

The whole northern land-frontier bordering on the dominions of Austria, Switzerland, and France is to a great extent undefended, the powerful works of the old frontier having been rendered useless by recent changes of boundary which may require the construction of costly fortifications at points corresponding to those of the famous *Quadrilateral*, formerly so celebrated in European warfare. The coast-line of Italy, which, including the shores of Sicily and Sardinia, is of very great extent, is at present rendered partially secure rather by the want of harbors of sufficient depth of water for the powerful vessels recently constructed and now constructing by almost every government in Europe than by defensive works capable of contending against such means of attack. In the opinion of able engineers expensive constructions ought to be at once commenced and new lines of railway planned with special reference to military communication, and public sentiment seems to demand that the general policy of the government should be subordinated to considerations of military efficiency.

The abolition of the odious and impolitic *grist tax* must operate as a considerable relief to the laboring classes, and the surrender of the equally obnoxious government monopoly of salt is earnestly demanded by able and influential statesmen, both on economic and sanitary grounds. Socialistic and other disorganizing opinions do not at present wear a threatening aspect in Italy, but the disparity in the physical condition of the productive and the unproductive classes is becoming too great to be submitted to much longer without violent attempt at reform.

* * * * * * *

The present administration * * * has on the whole been conducted with remarkable ability and success, and it has acquired a hold upon public confidence which will not easily be shaken.

I have, &c.,

GEORGE P. MARSH.

No. 194.

Mr. Marsh to Mr. Frelinghuysen.

[Extract.]

No. 1028.] LEGATION OF THE UNITED STATES,
Rome, May 19, 1882. (Received June 5.)

SIR: The commercial treaty between Italy and France, recently negotiated by the diplomatic representatives of those countries, has been submitted to the two houses of the Italian Parliament, and, after discussion, has been finally approved. I have refrained from making it the subject of a dispatch because it has not yet been officially promulgated or otherwise made public in any authentic form. I shall send copies of this treaty to the State Department as soon as it issues from the press. Its * * * approval was pressed by the ministry partly for political reasons as well as on economical grounds, and its approval will doubtless have a beneficial effect on the mutual relations between the two countries.

It has at least one advantage over the treaty of 1863, in having been thoroughly examined and publicly discussed, which can hardly be said of the former. The treaty of 1863 was scarcely discussed at all.

Of course I am not yet prepared to speak of the bearing of the provisions of the new treaty upon the commercial or the industrial interests of Italy, but I have no reason to suppose that any of them are of a character injuriously to affect the fair competition of American producers, whether agricultural or industrial.

In the mean time the revolutionary and counter-revolutionary movements in Egypt and in other northern provinces of Africa, which are every day assuming a new aspect and threaten to jeopardize the large Italian interests in those countries, are exciting much anxious feeling. * * * At any rate, many of the questions involved in the recent international action of the countries bordering upon the Mediterranean will soon imperiously demand a solution. * * *

I have, &c.,

GEO. P. MARSH.

No. 195.

Mr. Marsh to Mr. Frelinghuysen.

[Extract.]

No. 1029.] LEGATION OF THE UNITED STATES,
Rome, June 4, 1882. (Received June 26.)

SIR: By yesterday's post I forwarded to the State Department copies of four of the leading daily journals of Rome containing obituary notices of General Giuseppe Garibaldi, who died at his residence on the island of Caprera on the evening of the 2d of June.

General Garibaldi had for many years been a great sufferer from chronic rheumatism and other complaints, but I am not aware that there was any sensible decay in his mental powers until the near approach of the final catastrophe. This was probably hastened by the fatigue and excitement attendant on his visit to Palermo on the anniversary of the celebrated *Sicilian Vespers*, where it was feared that his presence might tend rather to inflame than to allay the actual natural irritation both against France and against the Church, which historic recollections and recent events have combined so strongly to aggravate. But either prudential considerations (of which Garibaldi, with all his enthusiasm of character, has seldom lost sight) or the languor of mortal disease restrained him from any such expressions of his known opinions and feelings towards the Tuileries and the Vatican as could give just cause of offence to the incumbents of high positions in either of those quarters.

The obituary details in the Italian journals contain many interesting facts in regard to the career of this remarkable man, but there is a certain reticence observable in most of them with reference to some events which the mystery that in spite of their recent date still hangs over them, renders Italian publicists shy of approaching. * * *

The last few years of Garibaldi's life were passed in retirement and comparative quiet. He did not exercise nor even attempt to exercise any partisan influence in the affairs of Italy. But to the beginning of this period of repose, when he had not yet ceased to be a *power* in Europe, belongs one of the grandest, perhaps *the* grandest and most significant act of his life. Though repeatedly elected to the House of Deputies in

the Italian Parliament, he first took his seat in Rome in 1876. At this period the political institutions of Italy, though they had apparently received their definite form, had not got completely into working order, nor had their action become so thoroughly a part of the common consciousness of the more or less discordant jurisdictions which had united to form a legal body politic, as to exclude all danger from disturbing influences. The Church was still avowedly hostile to the new political state; the attitude of the European governments in general towards it was as yet uncertain. Garibaldi, "who had never fully received the support or the confidence of the Italian aristocracy, though enjoying the most unbounded popularity among all other classes of his countrymen," was known to be exposed to influences not altogether friendly to the actual Government of Italy at that moment. His attitude, therefore, towards the new kingdom, as finally established at Rome (which city when he was last within its walls he was desperately defending as a republic against Napoleonic France) was a matter of extreme solicitude. It was not known whether he would take his seat in Parliament under the obligation imposed by the official oath required of deputies, and there was reason to fear that his refusal to do so would be the signal for the outburst of a new revolution whose extent and effects it was quite impossible to foresee. When, therefore, in the presence of the royal family and court, the assembled Parliament, and a vast multitude of spectators, he arose in his seat and by the word "*giuro*" pronounced his adhesion to the obligation implied by the oath recited to him by the proper officer, the sense of relief from an impending danger was manifested by a burst of applause from the excited audience, which was echoed and re-echoed by the expectant crowds that thronged the avenues to the Parliament-house and the adjacent streets. From that moment it was felt that Italy was not only *free* but *safe*.

Many times, however, both before and since that eventful day, the zealous patriotism and ardent philanthropy of Garibaldi have led him, not only in his private but also in his public utterances, to manifest a natural impatience with the government that old abuses were so slowly done away with, and that the moral and physical condition of the poorer class was not more rapidly improved. But all these outbursts of dissatisfaction have been set down both by prince and people to their true source, an enthusiastic love of his country and of humanity, and all classes alike, from the throne to the humblest peasant, are now rivaling each other in doing honor to the memory of one of the most extraordinary men that have appeared in any age or in any country. All Italy has assumed the badge of mourning; the King has expressed in strong terms sympathy with the bereaved family and with the kingdom on their great his loss; Parliament has voted a pension to each of his children and decreed a national monument in his memory; every large town is preparing to erect memorial statues, or taking other steps to do him honor, and every village and hamlet is manifesting its respect and affection according to its ability to do so. Garibaldi's political life was so closely associated with the history of the reign of Napoleon III that it can hardly be judged of by this generation or by the succeeding one. * * * The private life, the personal adventures, and the military career of Giuseppe Garibaldi will, in the mean time, form an important constituent in the legendary history of our country, and the rare personal qualities which characterize him as a true soldier, but which the military pedantry of the schools have denied to him, will be universally acknowledged by posterity.

I have, &c.,

GEORGE P. MARSH.

No. 196.

Mr. Marsh to Mr. Frelinghuysen.

[Extract.]

No. 1030.] LEGATION OF THE UNITED STATES,
Rome, June 29, 1882. (Received July 18.)

SIR: By this post I forward to the Department of State the Diritto of this date, containing in its leading article a detailed statement of the number and organization of the military force of Italy now actually under arms or which may be called into service in time of any probable emergency. These troops are all provided with the most improved arms used in modern warfare and otherwise thoroughly equipped for active duty. The discipline of the Italian army is not merely strict, but severe, * * * and I have no doubt that men thus trained will form a very effective soldiery, though I believe the social and moral discipline which is imparted to American youth, combined with a more elastic organization, and with greater freedom of individual action, will make an American army superior to any troops formed under the Italian or any other European system.

The expense of equipping and maintaining so large a military force is greatly disproportioned to the resources of Italy, and though the finances of the country have improved in condition under the present administration, yet a few years or even months of actual war would, as I believe, require the imposition of new burdens upon the Italian people.

* * * * * * *

The naval department, too, has involved a corresponding expenditure, and still larger appropriations are demanded for both the military and naval branches of the public service.

There are symptoms of discontent among the laboring classes in Lombardy and elsewhere, which though not extensive enough to threaten any immediate danger, yet point to the existence of a popular feeling that, * * * may well excite serious apprehensions as to the political future of Italy. Perhaps the greatest safeguard against revolt and revolution in Italy is to be found in the confidence so generally felt throughout the kingdom in the House of Savoy under its present wise and truly patriotic heads.

* * * * * * *

The present promising appearance of the principal crops throughout Italy is doing something to encourage and appease the classes that suffer most severely from public burdens, but the poverty of these classes is such that but for the vague hope of some great change for the better it could scarcely be endured.

I have, &c.,

GEORGE P. MARSH.

No. 197.

Mr. Frelinghuysen to Mr. Wurts.

No. 832.] DEPARTMENT OF STATE,
Washington, July 26, 1882.

SIR: Your telegram, announcing the sudden death of Mr. Marsh, has been received, and has been communicated to the President.

I have this day sent a message by cable, desiring you to convey to Mrs. Marsh the sympathy felt by the President, and by myself, with her in this bereavement.

The Italian minister at this capital has, by direction of his government, presented to the President the expressions of sorrow felt by the King of Italy at the death of that eminent author and diplomatist, whose merits are so highly appreciated wherever he was known.

Mr. Marsh entered the diplomatic service in May, 1849, when he was commissioned as minister resident to Turkey, where he remained until 1853.

In March, 1861, he was commissioned envoy extraordinary and minister plenipotentiary to Turin, whence he followed the government to Florence and Rome, and has occupied the post with credit to himself and his country for over twenty-one years.

To the country, and especially to this Department, the death of an officer of such large experience, and of such varied and high attainments, is a loss not to be repaired.

It may be some consolation to Mrs. Marsh in her deep affliction to feel that her sorrow is shared by all who had the good fortune to know Mr. Marsh, or who had official relations with him, and that she has the deep sympathy of her fellow-citizens who admired and respected Mr. Marsh not only for his scholarly attainments, but also as an exemplary citizen, and a faithful and able public servant.

I have to request you to renew to Mrs. Marsh the assurance of the deep sympathy which the President and I feel for her in her affliction.

I am, &c.,

FRED'K T. FRELINGHUYSEN.

No. 198.

Mr. Wurts to Mr. Frelinghuysen.

No. 1033.] LEGATION OF THE UNITED STATES,
Rome, July 30, 1882. (Received August 17.)

SIR: My telegram of the 24th instant informed you of the decease of Mr. Marsh, which took place at Vallombrosa, Tuscany, not on the morning of that day, as I was led to suppose by my first intimation of it, but on the evening previous. He died very suddenly of paralysis of the heart, without any premonitory symptoms and without suffering, his health being as usual up to a half hour of the event.

There being no telegraphic station in that out-of-the-way place, high up in the mountains, dispatches could be sent only the next day, and the earliest news of the sad event was communicated to me by the ministry of foreign affairs, which had its information from the Royal Institute of Forestry, and established in the former monastery of Vallombrosa.

I left at once to join Mrs. Marsh, both as a friend and the person indicated to provide for the interment befitting the rank of the deceased. On my arrival there I found that great difficulties had had to be overcome in the arrangement for the last offices to the dead, on account of the laws of Italy on the subject, but thanks to the energy and firmness of Signore Simone Peruzzi, an officer of the royal court, living near by, who assumed the responsibility of infringing upon the regulations, im-

possible to comply with there. These obstacles were surmounted, and I am happy to inform you that every mark of respect, and every honor due to the deceased as a distinguished man, and the representative of a friendly nation, were shown by the authorities of the Italian Government.

The remains were conveyed to Rome under my charge on the 28th, and on reaching the railway station were met by the diplomatic corps, the minister, director-general and secretary-general of foreign affairs, the director-general of the ministry of the interior, representing the prime minister, the syndic and a deputation from the municipality of Rome, delegates from the provincial council, a representation of the royal household, the consul-general and vice-consul-general of the United States, and a number of Americans and friends of the family. A regiment of lancers was in attendance, and a squadron of it led and a battalion closed the procession to the cemetery at the opposite side of the city, where the body will remain in a mortuary chamber until the end of September, by which time the family will be able to return to Rome, and there will be some American Protestant clergyman present to perform the religious ceremony of the funeral.

I have returned thanks verbally to the officials of the Italian Government for the attentions shown upon this melancholy occasion, and have written a formal note of thanks to the minister of foreign affairs, and called in person to express to the syndic of Rome my appreciation of the honors rendered; and I would indicate as deserving of special thanks his excellency Signore Mancini, minister, of foreign affairs; the Signore Malvano, director-general of foreign affairs; Signore Simone Peruzzi, master of ceremonies; the delegate from the prefecture of Florence, the commander of carabineers, of Pontassieve (these two last named, having been ordered to Vallombrosa to be at Mrs. Marsh's and my disposition, rendered most efficient services); the directors of the Royal Institute of Forestry, the syndics of Rome, Pontassieve, and Reggello.

All the principal journals of Italy have published highly eulogistic obituary articles on Mr. Marsh and his distinguished career, and expressions of condolence have been very general. The King and Queen both telegraphed to Mrs. Marsh their participation in her sorrow, the telegram of his Majesty expressing with much feeling his sympathy for her and his high appreciation of the eminent character of the late minister of the United States, who for twenty-one years shed luster upon his court.

I have, &c.,

GEORGE W. WURTS.

JAPAN.

No. 199.

Mr. Bingham to Mr. Blaine.

No. 1421.] UNITED STATES LEGATION, JAPAN,
Tokei, December 23, 1881. (Received January 17, 1882).

SIR: Herewith I have the honor to inclose for your information the China and Japan order in council for 1881,* to take effect on the 31st

*For inclosure see inclosure to dispatch No. 66, dated February 21, 1882, from the legation of the United States in China, Document No. 74, page 124.

instant, issued by Her Britannic Majesty, by and with the advice of Her Majesty's privy council, as published in the Japan Daily Mail of the 19th and 21st instant, together with the official notification of Her Majesty's consulate in Yokohama, as published in the issue of the same paper of the 21st instant.

I beg leave to say that reference to this order will show that the order in council for 1865, issued by Her Majesty for Japan and China, remains in full force save as modified in the order for 1881. I had the honor to transmit to the Department with my No. 229 a copy of the order of 1865.

The order last named, as I have heretofore suggested to the Department, provides that a jury in Her Majesty's courts in China and Japan for the trial of civil and criminal cases shall consist of five persons, and I beg leave to add that this provision remains in force under the order for 1881.

Permit me further to remark, that sections 101, 102, and 103 of the order of 1865 remain in full force, which several sections restrict the jurisdiction of Her Majesty's courts in Japan and China in criminal cases for crimes committed by British subjects on shipboard to such crimes as said subjects may commit within one hundred miles of the coasts of China or Japan and within any British vessel or Chinese or Japanese vessel or "within a vessel not lawfully entitled to claim the protection of the flag of any state."

In this connection I respectfully ask your attention to my No. 1228, dated the 22d December, 1880, in relation to the British claim of exclusive jurisdiction over John M. Ross, an American seaman, for a crime committed by him within the American merchant vessel Bullion, on the person of an officer and in violation of American law, when said vessel was within the territorial waters of Japan.

It seems to me important that I should especially note that this order for 1881, sections 9–20, provides that in China and Japan Her Majesty's respective ministers therein may join therein ministers of any foreign powers in amity with Her Majesty in making or adopting regulations with like objects as those described in the schedule of the order of 1881. A reference to the schedule appended to this order shows that the regulations thus provided for by joint action are land regulations; regulations and by-laws annexed thereto; regulations for the foreign settlements in China and Japan; and port, consular, and harbor regulations.

It really seems to me that this new device for joint regulations by virtue of co operation ought not to receive favor from our government. This provision is similar in character to the proposition made last year by the British consul at Nagasaki, which I communicated, with my views thereon, to your honorable predecessor in my No. 1242, and which views, adverse thereto, it gives me pleasure to say were approved by instruction No. 570. It seems to me that our government would do well not to permit our representatives either in China or Japan to take the joint action contemplated in this new project.

I would further call your attention to the extraordinary provision of section 47 of this order (*a*), that a foreigner may not institute and prosecute a suit of a civil nature in Her Britannic Majesty's courts in China or Japan without first obtaining and filing in Her Majesty's court the consent in writing of the competent authority of his own nation, and also his own agreement to submit to the jurisdiction of Her Majesty's court, abide its judgment, and, if required, also give security to perform and pay the same.

I have, &c.,

JNO. A. BINGHAM.

No. 200.

Mr. Bingham to Mr. Frelinghuysen.

No. 1523.] UNITED STATES LEGATION,
Tokei, Japan, July 5, 1882. (Received July 31.)

SIR: I am in receipt of [two dispatches from Mr. Consul Stahel, numbered 1613 and 1628 and dated respectively the 17th and 27th ultimo, inclosing a copy of correspondence between himself and W. A. Wooley, esq., Her Britannic Majesty's acting consul at Osaka and Hiogo, from which it appears that on the 3d ultimo Mr. Stahel transmitted to Mr. Wooley a complaint of Messrs. Meyer & Co., American citizens, against Messrs. Browne & Co., British subjects, for the recovery of $134.20, and that, on the 5th ultimo, Mr. Wooley notified Mr. Stahel that, before action would be taken in the premises, the plaintiffs must file in the British consulate the written consent of Mr. Stahel as well as their own consent, that they would submit to the jurisdiction of the British court, as required by section 47*b* of the British Order in Council of 1881, and which undertaking of the plaintiff it was said by the British consul should contain these words:

> We, the said plaintiffs, hereby undertake, if required by the court, to give security, as the court may direct, for the payment of fees, damages, costs, or expenses, and for the performance by us of the decision of the court, or of the court of appeal.

This is certainly a novel requirement, that citizens of the United States, being plaintiffs in a civil action, cannot institute such action against a British subject in a British consular court in Japan until they shall give security as above, and especially that they will perform the decision of the British court, which may be supposed, without a violent construction, to imply that the said court may not only adjudge damages against the plaintiffs and in favor of the defendant, in a claim of the latter in no wise connected with or growing out of the plaintiffs' cause of action, but also that the court may, in case the plaintiffs fail to perform the court's decision in the premises, be committed to a British prison by order of a British consular court.

Mr. Stahel, very properly in my opinion, declined to give his consent to this demand of the British consul, for the reason following, that he had no authority by law or regulation to give such consent.

It is further shown by the correspondence between said consuls, inclosed to me with Mr. Stahel's No. 1628, that on the 23d ultimo Mr. Wooley transmitted to Mr. Stahel the complaint of John Creagh, a British subject, against Frank Upton, an American citizen, for the recovery, by civil action in our consular court, of $21, which Mr. Stahel declined to entertain until, as he advised Mr. Wooley, American citizens should in like manner be permitted to prosecute civil actions in a British court against British subjects without being required to give the undertaking and consular consent now demanded by said British court. To this Mr. Wooley made reply, on the 24th ultimo, that he would bring the refusal of Mr. Stahel to the notice of Her Britannic Majesty's minister.

On the 24th ultimo, Mr. Stahel, in a note to Mr. Wooley, inquired of him whether he had authority to give his consent in writing to the submission of a British subject to the jurisdiction of our consular court, and to a similar undertaking by the British plaintiff in our court to that required of American citizens when plaintiffs in civil actions in the British consular courts.

On the same day Mr. Wooley replied that if his consent were asked

in such case by Mr. Stahel he (Mr. Wooley) would be willing to grant it, subject to the approval of Her Britannic Majesty's minister.

Having considered the whole matter as presented by Mr. Stahel and the correspondence between the two consuls, I have concluded that as British subjects are not, it would seem, by any treaty provision entitled to prosecute civil actions against Americans in our consular courts, our consuls are not therefore obliged to entertain such actions, save as a matter of comity, and should not entertain them, unless British consuls will extend like privileges to American citizens, and on the same terms, to sue British subjects in British consular courts. I have accordingly approved Mr. Stahel's action by a dispatch to him of date the 1st instant (a copy of which is herewith) in which you will please note that I advise him to adhere to his ruling in the premises until otherwise instructed.

Her Britannic Majesty's minister, Sir Harry S. Parkes, has not brought this matter to my notice, nor have I any intimation that he has any power to authorize such consent by a British consul in civil cases brought by British subjects against American citizens in our consular courts.

Hoping my views may meet with your approval, I have the honor, &c.,

JNO. A. BINGHAM.

[Inclosure in No. 1523.]

Mr. Bingham to Mr. Stahel.

UNITED STATES LEGATION,
Tokei, July 1, 1882.

SIR: In reply to your Nos. 1613 and 1628, dated respectively the 17th and 27th ultimo, I have to say that I approve your action in the premises, believing as I do that the right of citizens of the United States to sue in British consular courts in Japan should in all respects be the same as the hitherto acknowledged right of British subjects to sue citizens of the United States in our consular courts in Japan.

Under existing treaties it may be doubted whether a United States consul is obliged, save as a matter of comity, to try and determine a civil action brought in his court by a British subject against a citizen of the United States. Be this as it may, in my opinion your action in the two cases named is right, and should be adhered to until otherwise instructed.

I am, sir, &c.,

JNO. A. BINGHAM.

No. 201.

Mr. Davis to Mr. Bingham.

No. 679.] DEPARTMENT OF STATE,
Washington, August 11, 1882.

SIR: Your dispatch of the 5th ultimo, No. 1523, in relation to the requirement of the British order in council, of the 25th of October, 1881, to the effect that a foreign resident in Japan, of any other than British nationality, in order to the maintenance by him of a civil action in the British consular courts in that country against an English subject must—

First obtain and file in the court the consent in writing of the competent authority of his own nation to his submitting, and that he does submit, to the jurisdiction of the court, and, if required by the court, give security to the satisfaction of the court and to such reasonable amount as the court directs by deposit or otherwise to pay fees, damages, costs, and expenses, and abide by and perform the decision to be given either by the court or an appeal—

has been received; and in connection with a dispatch of the 21st of June last, No. 632, from Consul-General Van Buren on the same subject, and, indeed, relating to the precise case which Mr. Stahel presents to you, has received attentive consideration.

The general question was brought to the attention of the Department by Consul-General Van Buren in April last, in his dispatch No. 619, and on the 9th of May, following, Mr. Bancroft Davis, Assistant Secretary of State, replied by instruction No. 277 to Mr. Van Buren that he conceived the requirement of the British order in council to be "fair and just." Although the instruction referred to was brief, it was, nevertheless, the result of careful consideration as Mr. Davis was at that moment engaged in examination of the general question of extraterritoriality, and had the whole subject before him.

Mr. Stahel, in his reply to the British consul, an extract from which General Van Buren transmits in his No. 632 of June 21 last, says:

> Further, it appears to me that such submission, with my consent, to the jurisdiction of your court, to have the effect which the order in council you refer to must have contemplated, would require me, in case of need, to execute the judgment of your court, thus placing not only citizens of the United States under the jurisdiction of, but, virtually, the United States consular court officers subject to the orders of, Her Majesty's court.

I am unable to perceive that any such result would follow from the permission (for that is the proper word) of the United States consul to a citizen of his nation, or from anything in the terms of the order in council which is now before me. The citizen of the United States suing a British subject, in a British court, under the conditions referred to, submits himself to the process of the court in which the proceedings are had—nothing less and certainly nothing more.

You advance two objections to the British requirement:

First. That the British court may adjudge damages against the American plaintiff and in favor of the English defendant in a claim of the latter in nowise connected with or growing out of the plaintiff's cause of action.

I think you will at once perceive that this objection is met by provision C in 47 of the order in council; but, secondly, you add, that the court may, in case the plaintiff fails to perform its decision in the premises, commit the American citizen to a British consular prison by order of a British consular court.

With great deference for any opinion that you might express on any legal question, I must be permitted to say that that appears to me to be a forced construction of the order. Except for contempt and to enforce specific orders and decrees in chancery, imprisonment cannot properly be an element of procedure in civil actions in English any more than in American courts. Without, however, enlarging on this point, I must believe that in this respect your apprehensions are scarcely warranted.

You are quite right, I think, in saying that British subjects resident in Japan cannot, except by comity, sue in an American consular court; the same, of course, must be admitted as to an American's status toward a British consular court.

Now, on this, as well as other grounds, and in the light of the broad view which sound policy dictates should be taken of this extraterritorial judicial system, established as it has been for the common benefit and protection of foreign citizens of Christain nations, resident in the countries in which it is recognized, it appears to me most desirable that, in its administration, harmony and comity should be cultivated between

the different foreign nationalities, and that niceties and technical views should be as far as possible ignored, thereby facilitating that justice to foreign residents in those countries which the system was intended to secure.

You will consider the views imparted to General Van Buren by Mr. Bancroft Davis in the instruction already referred to, a copy of which I inclose, as the ruling of the Department.

I also transmit for your convenience a copy of a letter on the general subject, addressed to the chairman of the Senate Committee on Foreign Relations, on the 29th of April last, by the Secretary of State.

I am, &c.,

JOHN DAVIS.

No. 202.

Mr. Bingham to Mr. Frelinghuysen.

No. 1551.] UNITED STATES LEGATION,

Japan, Tokei, August 27, 1882. (Received September 25.)

SIR: Herewith I beg leave to inclose for your information an extract from the report of Sir James Bain, ex-lord provost of Glasgow, and recently made by that gentleman to the Glasgow Chamber of Commerce, together with the words of approval thereof by the British Mercantile Gazette, as published in the Japan Gazette of the 24th instant.

Sir James Bain, you will please observe, was appointed the representative of the Glasgow Chamber of Commerce to the Yokohama Chamber of Commerce, and was requested to gather information concerning the commercial relations between Great Britain and the countries of the East. The extract from his report which is inclosed treats only of Japan, and points out the disadvantages to commerce arising from the territorial restrictions of existing treaties.

Referring to the desire of the treaty powers to open the empire to foreign trade, Sir James reports that he was informed by the Japanese minister for foreign affairs that the Japanese Government might grant the liberty of trading everywhere in this empire, but only on condition of foreigners becoming amenable to the native tribunals; but adds that the foreign powers insist upon the privilege of general trade without the condition. The Mercantile Gazette remarks:

> We are disposed to agree with Sir James in considering such an arrangement perfectly equitable, more especially as the laws of Japan are now based on those of England and France, and as the system of administering justice, and their police, postal, and educational arrangements, bear favorable comparison with those of most other countries.

When the actual condition of Japan comes to be better understood by foreign states—her wonderful progress in the knowledge of good government and judicial administration—it seems to me that just men everywhere will concur with Sir James that the proposition of Japan is perfectly equitable and ought to be accepted by the treaty powers.

It is clear to my mind that the European states do not intend to release Japan, China, or any of the Oriental nations from European rule and European government so long as they can prevent it. It is not uncommon to see in European journals the announcement that the proposition to relieve Japan at any time, however remote, from the existing foreign control of her affairs, is not to be entertained by the great powers.

The world moves, knowledge advances among men and nations, and through its resistless power the people of the East must regain their lost liberties.

I have, &c.,

JNO. A. BINGHAM.

[Inclosure in No. 1551.—Extract from the Japan Gazette of August 24, 1882.]

In an article headed "Trade with the East," the British Mercantile Gazette has the following paragraph on Japan:

"Sir James Bain, ex lord provost of Glasgow, has returned from a tour around the world, and, having been appointed the representative of the Glasgow Chamber of Commerce to the Yokohama Chamber of Commerce, and requested to gather any information he could concerning the commercial relations between this country and the countries of the East, has presented his report to the Glasgow Chamber. Some portions of Sir James's report are referred to in another column, but we desire here to direct the attention of those trading with the East to a few points having an important bearing upon the trade of this country with China, India, and Japan.

"At present, trade with Japan is conducted under many serious disadvantages, and is limited to such ports as are specified in existing treaties, and to a small district round each. The powers in treaty with Japan, however, now desire to have the whole of Japan open to foreign trade on the same conditions as those which regulate trade with the treaty ports. Sir James Bain states that he was informed by the Japanese minister of foreign affairs that the Japanese Government might grant liberty of trading everywhere, but only on condition of foreigners becoming amenable to the native tribunals of the country. Foreign residents in Japan, it appears, will not accept this view, but we are disposed to agree with Sir James in considering such an arrangement perfectly equitable, more especially as the laws of Japan are now based on those of England and France, and as their system of administering justice, and their police, postal, and educational arrangements bear favorable comparison with those of most other countries.

"While Sir James appears to recognize the importance of having advantageous commercial relations with Japan, he does not anticipate the brilliant future for that country that many who visit it prophesy. He says it lies at 'the end of the earth,' and freights to and from must always be expensive. The country is thickly peopled, and the inhabitants have a struggle to raise a sufficiency of food for themselves. The climate of a large portion of the country is inhospitable; the roads are good, but the rivers are shallow, and the mountainous character of the country does not permit of much railway extension. There is a good coal field at Nagasaki, but it is being rapidly exhausted. Tea, silk, and rice are the staples of export. The first is not admired in Europe, and is sent principally to the United States. The production of silk is considerable and is being increased; rice is of superior quality, but the cost at the port of shipment and the expense of transit prevent it being brought into competition with Rangoon in the London market. The currency is greatly depreciated in consequence of large sums having been spent in unproductive and unnecessary works in the shape of fleets, armies, fortifications, and government offices."

No. 203.

Mr. Bingham to Mr. Frelinghuysen.

[Extract.]

No. 1555.] UNITED STATES LEGATION,
Tokei, Japan, August 28, 1882. (Received September 26.)

SIR: In the Japan Daily Herald of the 23d instant I find an article entitled "Corea, its trade and mineral resources," which it seems to me is worth recording, and a copy of which I have the honor to inclose.

* * * * * * *

I have, &c.,

JNO. A. BINGHAM.

[Inclosure in No. 1555.—Extract from the Japan Daily Herald, August 23, 1882.]

COREA: ITS TRADE AND MINERAL RESOURCES.

The interest that is at present taken in Corea makes any reliable information with respect to the trade and mineral resources of this hitherto forbidden land of great importance; and the following extract from Mr. Walter Lay's (commissioner of customs) report to Sir Robert Hart, inspector-general of customs, on the trade relations between Newchwang and Corea during the year 1881, will be read with interest. Mr. Lay says:

"The exchange of commodities between Newchwang and Corea has not been on such an extensive scale lately as it was at one time, owing, it is said, to the footing which the Japanese have secured for themselves on the eastern side of the Corean peninsula. By virtue of a treaty which they have concluded with Coreans, two places on the seaboard, called Bushan, in the south, and Yüanshan, in the east, have been opened to them, and through these new ports they have been supplying the country with many things which were formerly admitted into it on its western side through this port. Many influential Corean merchants, who at one time carried on their business at the Corean Gate, have transferred their operations to the new ports, leaving behind them a class of traders who are simply peddlers.

"The old conservative ideas of exclusiveness are fast disappearing from the Corean people, and the Corean Government, unable to stop the march of events, is now allowing its subjects both to leave and to return to their country. Formerly, commercial transactions between Chinese and Coreans were carried on at the Corean Gate, the Coreans having to obtain a pass to go thus far, and being forbidden on pain of death to go farther. Now, it appears that a Corean has simply to pay duty on his goods to enable him, if he cannot dispose of them at the Gate, to carry them where he likes. He can bring them down here, if he thinks the market will suit him better, but he cannot take them beyond Shanhaikwan, unless he holds a proper pass, which is a wooden ticket, and he can only obtain this if he is attached to the suite of an embassador.

"An embassy is sent from Corea to Pekin at periodical intervals, the number of individuals composing it being about two hundred. To each of these a passport is given so that he may have something to show should his official right to travel be called in question. The holders of passports either bring with them Corean productions for sale, or, for a consideration, they transfer their passports to others for that purpose. Without a passport a Corean can come as far as this port, but he cannot travel in the direction of Pekin.

"The restrictions against the exit of Coreans from their country having been relaxed, there is no longer any necessity to confine operations to the Gate, and the fairs, therefore, which have been held there three times a year, are now losing all their former importance. The Chinese are beginning to feel dissatisfied at the influx of Coreans into their country, arguing very rationally that privileges to trade should be reciprocal. Whilst Coreans can come in this direction with freedom, Chinese who venture across the border do so at the peril of their lives. Far north, in the wilds of Manchuria, the Coreans have been induced to settle on Chinese territory, and in one of the Peking Gazettes issued a few months ago there appeared a memorial from the Tartar general of Kirin, requesting the imperial sanction to allow taxes to be paid in cattle to suit the convenience of settlers, who were not allowed to bring away money from their own country.

"The chief item which the Coreans bring across the border is ginseng, and this is the most valuable. Wild ginseng is found among the hills, and takes more than thirty years to arrive at perfection. The root can be used when it has been in the ground about twelve years, but it is not so valuable as that of mature age. The other kinds of ginseng, known as first and second quality Corean, are a special branch of culture. Only well-to-do people can afford to set apart the ground for its cultivation, and to devote to it the time which it requires. The usual period allowed for the root to attain its full growth is from five to six years; it is then dug up, washed, and dried in a pan over a fire, and after the skin has been scraped away it is ready for the market. Once every year a small flower is put forth, the seed from which is carefully preserved and sown the following year. The root thrives best in a sandy soil.

"Among other things that Corea produces are gold dust, tiger skins, sable skins, and human hair. An experimental shipment of the last-named to England was made last year, but with what result has not yet been ascertained. Tigers and leopards abound in Corea; but few skins from that country pass through this port.

"In his work on Corea, Père Dallet affirms that the mountains conceal a wealth of gold, silver, and copper. Gold, he says, may be met with in the north by merely turning over the soil, but that excavations for this hidden treasure are not allowed under the severest penalties, the people not even venturing to pick it up on account of the impossibility of disposing of it. Some assert that the government discourage mining enterprise, because they are afraid of exciting the cupidity of powerful neigh-

bors; others attribute it to the fear of a revolt, which they are afraid would infallibly break out if a large number of workmen were concentrated on ground far away from the Capital and where there is little or no official authority. Iron, Père Dallet says, is so plentiful in some places that after heavy rain it may be freely obtained—people picking up as much as they like of it.

"A country with such mineral resources as Corea is said to possess can scarcely remain closed much longer to the outer world. The Japanese have secured a footing there, and it now remains for England, with her large commercial interests, to obtain one also. I am given to understand that Coreans generally are in favor of opening the country to trade and simply await the advent of foreigners to receive them with open arms. This may mean that the mercantile portion of the people would like to see foreigners appear; it does not necessarily indicate a desire on the part of the official class to welcome a change.

"In exchange for the various articles which Coreans bring down here, they obtain foreign piece goods, native cloth, silk piece goods, and treasure. They also like foreign dyes, and are not proof against the seductive charms of opium. As the trade of this port has been almost entirely in the hands of the Chinese since it was first opened, it is more than likely that it has been the Chinaman, and not the foreigner, who has introduced this well-known narcotic into this new and unexplored country."—Shanghai Courier.

LIBERIA.

No. 204.

Mr. Smyth to Mr. Blaine.

No. 153.] LEGATION OF THE UNITED STATES,
Monrovia, Liberia, October 29, 1881. (Received December 2.)

SIR: The German corvette Victoria, from Rio de Janeiro, arrived here October 28, 1881. The object of the present visit is to demand payment of the promised indemnity in the matter of the German ship Carlos.

Application for payment having been made by the German consul some time ago, and disregarded, the information was given the foreign office, which is the cause of the presence of the Victoria. This information I have from Commander Von Valois.

I am, sir, &c.,

JNO. H. SMYTH.

No. 205.

Mr. Smyth to Mr. Blaine.

No. 155.] LEGATION OF THE UNITED STATES,
Monrovia, Liberia, November 10, 1881. (Received December 13.)

SIR: The German corvette Victoria, under Commander Valois, sailed from this port November 2, 1881, for the Cape de Verde Islands, where a portion of the German squadron is, for the purpose of having dispatches forwarded to Berlin.

After two interviews had by Commander Valois and the acting German consul with the secretary of state, a settlement of the indemnity due in consequence of the piratical depredations upon the German steamer Carlos was arrived at; the entire sum of $5,375 was paid by the Liberian Government.

With renewed sentiments, &c.,

JNO. H. SMYTH.

No. 206.

Mr. Smyth to Mr. Blaine.

[Extract.]

No. 156.] LEGATION OF THE UNITED STATES,
Monrovia, Liberia, November 18, 1881. (Received December 23.)

SIR: At Liberia College, which, under the presidency of Hon. Edward W. Blyden, secretary of the interior, has recently entered upon a new and hopeful career of usefulness, on Wednesday, November 16, 1881, there was held an examination of the students, preparatory to the vacation season.

The class of freshmen acquitted themselves in a most creditable and satisfactory manner. They were examined in arithmetic, geography, Latin, Greek, Arabic, algebra, and physics.

The president of the republic and cabinet were present, the chief justice, distinguished citizens and a large concourse of citizens, the consul of the Netherlands and myself. President Blyden in a brief speech urged upon the people the importance of education as a means of advancing the state. The President of Liberia spoke in eulogistic terms of the new impetus he believed would be given education through the college.

In response to the request of President Blyden, I made some remarks, in which I took occasion to point out the very rare opportunities the students of Liberia College enjoyed in receiving an education in Africa, and under the direction, instruction, and supervision of a negro gentleman such as President Blyden, whose purpose was not to make of them Saxons nor Celts, either in education or religion, but to fit them for the peculiar, important, arduous, but grand, work of being useful as negroes for the negro, of being useful in advancing civilization in Africa for Africa, and that it may be a power in the world. * * *

I said, "The work of the negro race and Africa is your work, the negroes' work, and will not be done until the negro is fitted for its accomplishment by proper culture of heart and head, and full, untrammelled development of his racial instincts. Delay is not failure. The future for us is in the keeping of God. His work never fails. And, gentlemen, you no doubt, in the secrecy of your own reflections as future citizens of Liberia, ask yourselves to what end is this preparation, is this work. It has a special political bearing: The making of Liberia, in the language of my government, through the late Secretary of State, Hon. Wm. M. Evarts, 'what her rulers should value before all else, a thoroughly independent and strong power.'—(Dispatch No. 40, February 2, 1880). Says the present honored incumbent of the office of Secretary of State, Hon. James G. Blaine, in reply to a dispatch of mine, 'Your views in the main reflect the desire of this government that Liberia should do everything which may be done to increase her strength and prosperity, by just measures looking to the development of her great natural resources.' As future citizens, this is your work. By education, such as you are receiving, alone can this be successfully done."

I concluded by assuring the assemblage of the very sincere interest my government has in the ultimate success of Liberia.

With an apology for the length of this dispatch, I beg, &c.,

JNO. H. SMYTH.

No. 207.

Mr. Smyth to Mr. Blaine.

No. 162.] LEGATION OF THE UNITED STATES,
Monrovia, Liberia, December 5, 1881. (Received January 11.)

SIR: On the 1st of December, 1822, the pioneer settlers here on Cape Messurado, the site now occupied by and known as Monrovia, the final engagement was fought which determined the possibility of civilized settlement in this part of Liberia.

This event is annually celebrated in honor of the victory gained by the civilized negro over his misguided heathen brother.

The commemoration exercises were held in the Methodist church. The cabinet and diplomatic and consular officers resident here were invited. The absence from the imposing gathering of the President was due to illness, to which I recently made allusion.

Speeches were delivered by Messrs. Barclay and Brown, commemorative of the occasion. There was a marked difference in the tone of the addresses as compared with those usually made on such occasions. The custom, I learn, is to make that class of speech on the recurrence of the day, which tends to keep alive a feeling of alienation from the native races, which has so long existed and which has been so harmful to Liberia's progress.

I am happy to state that the foremost men of the nation deprecate the past, and by example are making a reform in this matter.

After the conclusion of the exercises at the church, the cabinet and foreign representatives, the orators, and a few distinguished citizens were lunched at the mayor's residence. Sentiments were offered by the mayor. First in order was the President of Liberia, to which the secretary of the interior, by the request of the secretary of state, spoke.

Among the excellent thoughts expressed by Dr. Blyden, one struck me as singularly wise and worthy of reflection. In alluding to the late war in our country, a struggle between brothers, he reminded his fellow-citizens that there was no commemoration of victory, but that on Decoration Day the nation puts on weeds and strews chaplets of flowers on the blue and the gray. He said he regarded such a course for his fellow-citizens to be more fitting than indulgence in festivity and military display over a victory gained over their brothers.

I am, sir,

JNO. H. SMYTH.

MEXICO.

No. 208.

Mr. Morgan to Mr. Frelinghuysen.

No. 332.] LEGATION OF THE UNITED STATES,
Mexico, January 4, 1882. (Received January 18.)

SIR: On the receipt of Department dispatch No. 199, November 29, I addressed a note to Señor Mariscal, asking him to appoint a day and hour upon which I could read it to him. A copy of my note I inclose. Señor Mariscal replied that he would receive me at the foreign office on Friday, the 16th instant. A translation of his note I inclose.

I kept the appointment, read to him your dispatch, and left with him a copy thereof. I also, in a separate note, conveyed to the President of Mexico, through the foreign secretary, the formal invitation of the President of the United States to name two commissioners to a congress of the independent countries of North and South America to be held at the city of Washington, on the 24th day of November, 1882. A copy of my note I inclose. Señor Mariscal informed me that he would lay the matter before the President and promised an early reply to the invitation.

On the 22d December I received your dispatch No. 201, December 1, in which you informed me that there was an error of date in your dispatch No. 199, December 1, and that the 22d of November, 1882, should be substituted for "24th." This correction I made in a note which I addressed to Señor Mariscal on the 22d December, 1881, a copy whereof I inclose.

The receipt of this note Señor Mariscal acknowledged on the 22d December, 1881. A translation of his note I inclose.

On the 29th December I received your dispatch No. 202, December 3. On the 31st December in an interview which I had of Señor Mariscal I stated to him that the proposed congress was to be held under the auspices of the United States, and that the commissioners appointed thereto would be at no expense except for their maintenance while in attendance upon the sessions thereof.

The opportunity presented itself for me to suggest that it would be advisable that one at least of the commissioners to be appointed should be acquainted with the English language, and I took advantage of it.

Señor Mariscal said that he supposed the Mexican minister at Washington and some one from Mexico would be appointed. He did not, however, inform me that his government had determined upon sending any commissioners. To avoid any possible misapprehension on the part of the Mexican Government as to the purpose of the United States in respect of the expenses of the proposed congress, I deemed it proper to address him a note upon the subject, which I did on the 3d January. A copy whereof I inclose. You will observe that it is an extract from your dispatch (No. 202).

More than a fortnight having expired since my interview with Señor Mariscal, and not having received any communication from him upon the subject, I have considered it proper to inform you of what has taken place.

I am, sir, &c.,

P. H. MORGAN.

[Inclosure 1 in No. 332.]

Mr. Morgan to Señor Mariscal.

LEGATION OF THE UNITED STATES,
Mexico, December 13, 1881.

SIR: I have been instructed to read and to leave with your excellency a copy of a dispatch from the Secretary of State, dated at Washington, the 29th November, and I have to request that you will name a day and hour when it will suit your convenience to give me an audience.

I renew to your excellency, &c.,

P. H. MORGAN.

[Inclosure 2 in No. 332.—Translation.]

Señor Mariscal to Mr. Morgan.

DEPARTMENT FOR FOREIGN AFFAIRS,
Mexico, December 14, 1881.

MR. MINISTER: In reply to the polite note of your excellency of yesterday, in which you desired me to name a time for an interview with me, for the purpose of reading a dispatch from the Secretary of State at Washington, I have the honor to say to your excellency that I shall be pleased to meet you here on Friday next, 16th instant, at 12 o'clock noon.

I renew to your excellency, &c.,

IGNO. MARISCAL.

[Inclosure 3 in No. 332.]

Mr. Morgan to Señor Mariscal.

LEGATION OF THE UNITED STATES,
Mexico, December 16, 1881.

SIR: Referring to the interview which I have this day had of your excellency, and to the copy of the dispatch to me from the Secretary of State, under date of the 29th November last, which I have handed to you, I now, in the name of the President of the United States, tender through you to His Excellency the President of the Mexican Republic, a formal invitation to send two commissioners to a general congress of all the independent countries of North and South America to be held in the city of Washington on the 24th day of November, 1882, for the purpose of considering and discussing the methods of preventing war between the nations of America, the two commissioners to the congress to be provided with such powers and instructions on behalf of the Mexican Government as will enable them to consider the questions brought before that body within the limits of submission contemplated by this invitation, which is fully set forth in the dispatch, a copy of which I have furnished you with; and to this invitation I would respectfully intimate that as prompt an answer may be given as the just consideration of so important a proposition will permit.

I renew to your excellency, &c.,

P. H. MORGAN.

[Inclosure 4 in No. 332.]

Mr. Morgan to Señor Mariscal.

LEGATION OF THE UNITED STATES,
Mexico, December 22, 1881.

SIR: Referring your excellency to the copy of the dispatch of the 29th ultimo, which I read to your excellency, I am now instructed by the Department of State to say, that through an error of copy the day for the assembling of the proposed peace congress is given as the 24th of November, 1882. It should be the 22d.

I renew to your excellency, &c.,

P. H. MORGAN.

[Inclosure 5 in No. 332.—Translation.]

Señor Mariscal to Mr. Morgan.

DEPARTMENT OF FOREIGN AFFAIRS,
Mexico, December 22, 1881.

MR. MINISTER: I have had the honor to receive your excellency's note of this date, in which, referring to the dispatch of the Secretary of State of the United States, of the 29th of November, ultimo, you were pleased to say to me that, by an error of copy, the date for the assembling of the proposed peace congress should be the 22d.

I renew to your excellency, &c.,

IGNO. MARISCAL.

[Inclosure 5 in No. 332.]

Mr. Morgan to Señor Mariscal.

LEGATION OF THE UNITED STATES,
Mexico, January 3, 1882.

SIR: Referring your excellency to the dispatch from the Secretary of State under date of the 29th November last, a copy of which I left with you on the 13th December, relating to the proposed holding of a general congress to be composed of representatives from all the independent countries of North and South America, on the 22d November, 1882, I deem it proper to say to your excellency that it is proposed that the congress shall be held under the auspices of the Government of the United States, which, to this end, will supply a suitable hall for the meetings of the commissioners, will take charge of all necessary arrangements, and, at its own expense, will meet all the material requirements of the congress, reporting and interpreting the proceedings and printing the resultant protocols, in Spanish and English, for the use of all the parties. Secretaries, clerks, and copyists in both languages will be provided and paid by the United States—no expense being left to the invited countries except the maintenance of their own commissioners.

I renew to your excellency, &c.,

P. H. MORGAN.

No. 209.

Mr. Morgan to Mr. Frelinghuysen.

No. 375.] LEGATION OF THE UNITED STATES,
Mexico, March 28, 1882. (Received April 18.)

SIR: In my No. 332, January 4, last, I reported to you the steps I had taken towards carrying out the instructions contained in your Department dispatch No. 199, December 1, 1881, to the effect that I was to convey to the President of Mexico, through the foreign secretary, the formal invitation of the President of the United States to name two commissioners to a congress of the independent countries of North and South America to be held at the city of Washington on the 24th November, of the present year.

I now inclose a copy and translation of the foreign secretary's answer The President of Mexico accepts the invitation.

I am, &c.,

P. H. MORGAN.

[Inclosure in No. 375.—Translation.]

Señor Mariscal to Mr. Morgan.

DEPARTMENT FOR FOREIGN RELATIONS,
Mexico, March 23, 1882.

MR. MINISTER: I have the honor to reply to your excellency's note of the 15th December last past, in which, referring to our interview of the same day, and to the important dispatch which, on the 29th of November, had been addressed to you from Washington, by the honorable Secretary of State, of which document you were pleased to furnish me a copy, inviting, in the name of the Government of the United States of America, the President of the United States of Mexico to send two commissioners to a general congress of all the independent nations of North and South America, to meet in Washington on the 24th November, 1882, with the view of examining and discussing the methods by which war may be avoided between the nations of America; said commissioners to be instructed and to be clothed with necessary powers to fulfill the trust confided to them.

The object which your excellency's government has in view by this invitation deserves the most sincere approbation and applause of the government to which it is addressed.

To avoid the evils of war which the Hon. Mr. Blaine, in few words, so eloquently describes is, no doubt, a most noble aspiration and of the greatest importance ("*transcendencia*") to the progress, moral and material, of the peoples, and which involves the grandest results to humanity. So interesting a project, which is its own recommendation to all the nations of the globe, acquires a double importance when it relates to populations, such as are those of the new world, united either by ties of consanguinity or by a community of political institutions, or at least by this peculiar position which they all hold towards the nations of the Old World. It is certain that no American government can or at least should feel less impressively than that of your excellency, the dangers and horrors of war, above all if the contest should arise between people of the same kindred (pueblos hermanos); and it is equally certain that no chief of a government on the continent discovered by Columbus, could be less sensible than the President of the United States of America to the necessity of putting an end to these fratricidal strifes. The whole difficulty, if one presents itself, is in the practical method by which an end as justly applauded as it is universally aspired for may be brought about.

The attitude which the Washington Government has assumed in this humanitarian enterprise is entitled to the eulogy of the entire world and to the most favorable considerations of the nations interested therein. Your excellency's government deserves particular encomiums for its respect for the right, in not distinguishing between the weak and the strong, when it protests that it does not pretend either to dictate or compel in this question, but only shows the good will and disinterested solicitude of a friend. While protesting against the use of force for the purpose of promoting its absolute proscription between the American nations, the one which amongst them undertakes so generous a propaganda the least interested, because her great resources make war less terrible to her. It certainly cannot be alleged that she has used her position as the principal power in the New World to impose authoritatively the methods of settling disputes between her neighbors, except by appealing, as she has done, to an amicable judgment to the end of arriving at a free agreement, the only fountain of obligations and rights for sovereign entities.

Since 1853 this government has been pledged to this excellent design, in consequence of a recommendation to the President by the Senate, to the effect that he should, on all occasions in which it should be possible, to insert in treaties an article by which it should be agreed to submit the difficulties which might arise between the contracting parties to the decision of arbitrators chosen by a common accord; and even anterior to that date—that is to say in 1848—there was inserted, within prudent limits, a similar clause in the treaty of peace concluded in that year between our two nations.

It is not, therefore, surprising that the United States should now submit generally the same idea to all the American states, nor that Mexico should be willing to adopt it. The Mexican Government, which found itself, with regret, unable to accept the invitation of Colombia to take part, through its representatives, in a congress which was to have assembled at Panama with the object of entering into a treaty similar to the one which Colombia had made with Chili, by which she would be compromised for all time to submit to arbitration every question which might arise between the contracting governments; this government which admires and applauds the tendencies of such an agreement, did not then consider itself prepared, from consideration of the just and legitimate interests which it is called upon to defend (to accept said proposition), to-day has the satisfaction to observe that in the prospect of an American Peace Congress, suggested by your excellency's government, the serious difficulties which prevented it from participating in the one projected by Colombia have been done away with.

To-day it is seen that in the (proposed) congress all the nations of America, without excluding any of them either because of their peculiar form of government, or from the superior elements of power which they may possess, are to be admitted, and that all should contract the same obligations upon the footing of perfect equality, circumstances which give to the actual present project a practical importance which was wanting in the other to this republic.

On the other hand, although the project of the United States does not prescribe the measures necessary to be taken to avoid war nor propose the draft of a definite convention, it consequently leaves the parties in interest complete liberty to discuss and stipulate upon these points, and to designate, in case arbitration should be adopted, cases which are to be submitted to it, and those cases in which its application is to be reputed impossible.

Moreover, the assembling of the commissioners being fixed for a date in which the questions now pending (to those who may be interested, which thing should be respected) will have had their solution or will have disappeared completely.

For these reasons the Mexican Government does not, at this time, feel the inconveniences which heretofore embarrassed it, and deems it compatible with the national interests to send its representatives to an assembly which will discuss what measures may be taken to secure peace on the American continent.

In consequence of which the president of this republic accepts with pleasure the invitation which, through your excellency, the President of the United States of America has tendered him to send two representatives to the International American Congress which is to meet in Washington on the 24th November next.

Reiterating, &c.,

IGNACIO MARISCAL.

No. 210.

Mr. Morgan to Mr. Frelinghuysen.

No. 385.] LEGATION OF THE UNITED STATES,
Mexico, April 4, 1882. (Received April 18.)

SIR: I transmit herewith the address of the President to both houses of Congress, on the occasion of the opening of the regular session thereof on the 1st instant, as it is published in the Diario Oficial of that date, together with a translation thereof.

The President states that the financial condition of the country is good; that its revenues are sufficient to meet its engagements; and that for the first six months of the present fiscal year they have exceeded the sum received during the six months preceding upwards of $2,000,000; that the work on the railroads is progressing, and that telegraphic communication is being extended in many directions.

The foreign relations of the country are satisfactory except perhaps with Guatemala. He repudiates the idea of any desire to extend the territory of Mexico by the conquest of the Central American states, and with reference to that nation (Guatemala) and alluding to the questions pending between them, he says, that if Guatemala will renounce her unrealizable pretensions to a retrocession of Chiapas and Soconusco for the supposed damages which she claims for having been despoiled thereof, the good faith of the policy which he announces towards the Central American states would soon be vindicated. He announces the purchase of 18,500 stand of arms of the most approved pattern and latest system, which, with those now in the arsenals and in the hands of the army, place the nation upon a respectable footing.

I am, sir, &c.,

P. H. MORGAN.

[Inclosure in No. 385.—Extract.]

PRESIDENT'S MESSAGE.

GENTLEMEN OF THE CHAMBER OF DEPUTIES AND SENATORS: * * * The good harmony which has for some time past existed between Mexico and the foreign powers with whom she has relations has been preserved, and has increased, and we receive from them frequent evidences of their friendly feeling towards us.

Our relations with Guatemala continue in the same condition they were in when I gave you an account of them in September last,

When treating of interests of such magnitude it is prudent, without neglecting them, to leave to time that natural influence which it sometimes advantageously exercises in bringing complicated questions to a solution.

I must, therefore, for your information, as well as for that of Mexico and of the Governments of Central America, explain clearly and succinctly what are the aspirations of my administration in our difficulties with Guatemala, and I hope that you will not deny to me the co-operation necessary to bring them to an end.

Perhaps the circumstance that in former times some of the republics which are grouped together in the center of the continent, formed part of the Mexican nation, has given rise to the idea that our republic, stimulated by its actual condition of tranquillity and progress, wishes to possess itself, in whole or in part, of these politi-

cal entities, which are now sovereign and independent, and annex them to our own territory—a lamentable error which might alienate from us the sympathy of the people thereof, from whom no conflict separates us, and with whom we desire to cultivate and strengthen, if possible, the most disinterested friendship.

When we possess a territory of the greatest richness, washed by two oceans, capable of supporting in prosperity a population of one hundred millions, it would be insensate in us to attempt the conquest of those countries, from which we are separated by great distances, and we would unceasingly repel in them those proper sentiments of liberty and independence which are as firmly rooted in their soil as they are in our own. And I solemnly declare to Congress, and to the nation which it represents, that my administration has no other views with reference to the questions which now exist with the southern republic, than the defense of the territory and dignity of Mexico, and looks only to the establishing of a well-defined boundary which will be adopted by a common accord between Mexico and Guatemala. If the government of that country will renounce the unrealizable idea of reoccupying Chiapas and Soconusco, or of obtaining an indemnity for supposed damages for having been despoiled of the same, the sincerity of the policy which in these few words I have indicated would be soon made apparent.

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No. 211.

Mr. Morgan to Mr. Frelinghuysen.

No. 423.] LEGATION OF THE UNITED STATES,
Mexico, May 6, 1882. (Received May 18.)

SIR: Your telegram of the 3d instant was received late in the evening of the 3d. The first portion thereof was quite unintelligible. The latter part, however, showed me that I was instructed to apply for permission for United States troops to follow certain Indians into Mexico until their pursuit could be taken up by a competent force of Mexican troops.

As I considered that action in the matter if taken at all should be taken at once, I proceeded to Señor Mariscal's residence. On my way there I called at the telegraph office with the view of ascertaining and correcting the errors in the telegram, but the office was closed.

Señor Mariscal had received a telegram upon the same subject from Señor Romero at an early hour of the day. He had, he told me, endeavored to bring it to the notice of the President, but had been unable to do so on account of his (the President's) illness. He hoped, however, to be able to see him on the following day, when he would discuss the matter with him, and when he should be in possession of the note which I informed him I would address him. This note I wrote on my return, and sent it to him early in the morning of the 4th. A copy thereof I inclose.

I could not make it more explicit because I could not make out from your telegram the name of the general referred to, nor the tribe of Indians who were being pursued, nor at what point the crossing of our troops was expected to take place from.

I had some conversation with Señor Mariscal upon the subject, and while he said he did not wish to be understood as speaking for the President, he called my attention to the circumstance that when I had made a similar application to the Mexican Government some time ago, which had been acceded to upon the condition that a like permission should, the case arising, be granted to Mexican troops, no reply whatever had been given.

He also stated that not long since he had made a similar request upon our government, which had been refused. He appeared to think the United States were asking what they would not give.

He directed my attention also to the clause of the federal constitution, which provides that no foreign soldier as such shall be permitted to come into Mexico without the consent thereto of Congress (Paragraph III, No. XVI); and he said that, even should the President submit the question to Congress, some time would elapse before it could be brought to a vote.

I now inclose a copy and translation of Señor Mariscal's reply. It is dated on the 4th instant, but was received by me only on the 5th. As you will have observed, the President declines to submit the question to the Senate, that authority having twice, as Señor Mariscal says, refused to grant the request except under certain conditions which were submitted to the Government of the United States, to which no reply was made, unless he (the President) should be informed that a similar request, under the same circumstances, would be acceded to by the Government of the United States. This I telegraphed to you on the 5th instant.

I am, &c.,

P. H. MORGAN.

[Inclosure 1 in No. 423.]

Mr. Morgan to Señor Mariscal.

LEGATION OF THE UNITED STATES,
Mexico, May 3, 1882.

SIR: I have been instructed by my government to request permission for United States troops to cross into Mexico in the pursuit of hostile Indians, whose capture they are seeking to accomplish, until said pursuit can be taken up by a competent force of Mexican troops.

I am, &c.,

P. H. MORGAN.

[Inclosure 2 in No. 423.—Translation.]

Señor Mariscal to Mr. Morgan.

DEPARTMENT OF FOREIGN AFFAIRS.
Mexico, May 4, 1882.

MR. MINISTER: I have received the note which your excellency addressed to me of this date, in which you inform me that your government had instructed you to request permission for the United States troops to cross upon Mexican territory in pursuit of hostile Indians, whose capture they were seeking, until a competent force of Mexican troops should be able to take up the pursuit.

In reply, I have the honor to say to your excellency that, as is known, it belongs to the Senate of Mexico to grant the permission asked for, and considering that that body has twice felt it to be its duty to refuse a similar request except upon the condition of reciprocity, and under certain necessary measures of precaution necessary to both countries, conditions with reference to which the Government of the United States has returned no answer whatever, the President does not consider it proper (*oportuno*) to consult the said house upon the subject on this occasion, while, at least, he is not informed that said government is disposed to grant a similar request, under similar circumstances, to Mexican troops.

Certainly the first Magistrate, desiring to assist, as far as possible, within the limits of his constitutional authority, in the pursuit of the hostile Indians referred to, has given orders through the secretary of war, by telegraph, that, within Mexican territory, they be pursued with the greatest vigor, and to capture them (*procurando su captura*); and that should they succeed in recrossing the frontier prompt advice be given thereof to the United States forces to the end that they be able to attack them without loss of time.

I renew, &c.,

IGNO. MARISCAL.

No. 212.

Mr. Frelinghuysen to Mr. Morgan.

[Extract.]

No. 271.] DEPARTMENT OF STATE,
Washington, June 6, 1882.

SIR: Acknowledging the receipt of your telegram of the 13th ultimo, in relation to the reciprocal passage of troops across the border when in pursuit of hostile Indians, I have now the pleasure to inclose, for your information, a copy of a letter from the Secretary of War, of the 31st ultimo, wherein he announces that the proposed terms or conditions upon which such passage may be made are acceptable to the General of the Army and to himself.

I have also communicated a copy of Mr. Secretary Lincoln's letter to Mr. Romero, the Mexican minister at this capital, for the information of his government, he having forwarded hither a telegram similar in purport to your own.

* * * * * * *

I am, &c.,

FRED'K T. FRELINGHUYSEN.

[Inclosure in No. 271.]

Mr. Lincoln to Mr. Frelinghuysen.

WAR DEPARTMENT,
Washington, May 31, 1882.

SIR: I have the honor to acknowledge the receipt of your letter of the 15th instant, transmitting a copy of a note from the minister of Mexico at this capital, in relation to the reciprocal passage of troops across the border, in pursuit of fugitive Indians, and a copy of a telegram from the United States minister at the city of Mexico, presenting the terms upon which such passage may be made.

In reply thereto, I beg to state that this correspondence was duly referred to the General of the Army, who, in returning the same, expresses the opinion that "the terms proposed by the Mexican minister in his communication of May 12, 1882, are just and fair, and should be accepted pure and simple."

The views of the General of the Army are concurred in by this department, and should they receive the approval of the Department of State, the necessary instructions will be issued by the military authorities to carry the same into effect.

Very respectfully, &c.,

ROBERT T. LINCOLN,
Secretary of War.

No. 213.

Mr. Morgan to Mr. Frelinghuysen.

No. 447.] LEGATION OF THE UNITED STATES,
Mexico, June 17, 1882. (Received July 1.)

SIR: Your dispatch No. 189, November 10, 1881, was received by me on the 2d December. In it I was instructed to call the attention of the Mexican Government to the case of Mr. Thomas R. Gartrell, and his wife, Nellie J. Gartrell, who were murdered while traveling, near the

city of Durango, and to request that it take the competent measures for the arrest of the offender, his prosecution and punishment.

These instructions I complied with in a note which I addressed to Señor Mariscal, on the 3d December, a copy whereof I inclose.

Señor Mariscal not having made any reply to this note, I, on the 10th instant, addressed him another note upon the subject. A copy of this note I inclose.

I have to-day received Señor Mariscal's reply. A translation I inclose.

You will observe that Señor Mariscal, while furnishing information as to what has been done in the case, as far as he knows, states that if the purpose of my notes is limited to bringing to the knowledge of the Mexican Government the commission of a crime, with the view of having the perpetrators thereof punished, he is pleased to have attended to my request, but that if the purpose is to lay the omen of a claim, as has been done in other cases, he has been instructed to say, at once, that diplomatic intervention cannot possibly be admitted, both because the case does not warrant it, and because the matriculation record of the foreign office does not show that Mr. and Mrs. Gartrell were citizens of the United States.

I am, sir, &c.,

P. H. MORGAN.

[Inclosure 1 in No. 447.]

Mr. Morgan to Señor Mariscal.

LEGATION OF THE UNITED STATES,
Mexico, December 3, 1881.

SIR: Thomas N. Gartrell, and his wife, Nellie J. Gartrell, citizens of the United States, arrived at the city of Chihuahua from El Paso, Tex., in July last. Their purpose was to travel in the republic of Mexico. At Chihuahua they purchased saddle-horses and pack-mules, and employed a Mexican servant to accompany them on their travels. They reached Hidalgo del Panal, Chihuahua, where they remained several days. They then proceeded to the city of Durango, stopping at various points *en route*, especially Tudé, State of Durango, where they remained a week or more.

They left Durango, during the latter part of the month of September, for Mazatlan, after which nothing was heard of them until about the 10th of October, when their bodies were found about ten leagues from the city of Durango, on the Mazatlan road. They had evidently been murdered for the purpose of robbery. It would seem that the man was shot while asleep. It is supposed that the woman must have been awakened by the discharge of fire-arms, and had attempted to make her escape, as her body was discovered about one hundred paces from that of her husband. Her clothing had been torn to rags, and her body showed marks which she had received in her struggle with her assassin. As it was known that she wore on her person a belt containing gold, the object of the assault upon her was doubtless to obtain this gold. They had also with them drafts on a banking-house in San Antonio, Tex., for a considerable amount which are said to have been taken possession of.

The servant who was with them has not been seen since they left Durango. Suspicion naturally points to him as the murderer. His name, I regret to say, I am not able to furnish, but as the party tarried some time at Chihuahua, where they hired the servant, it would seem that the authorities at that place would not have great difficulty in ascertaining who he was.

The foregoing are the facts, as they have been reported to my government, and I have been instructed to submit them to the consideration of your excellency's government, and, as the murder appears to have been a particularly aggravated one, to request that it take the competent measures for the arrest of the offender, his prosecution and punishment.

I renew to your excellency, &c.,

P. H. MORGAN.

[Inclosure 2 in No. 447.]

Mr. Morgan to Señor Mariscal.

LEGATION OF THE UNITED STATES,
Mexico, June 10, 1882.

SIR: On the 3d December, 1881, under instructions from my government, I informed your excellency of the murder of Thomas N. Gartrell and Nelly G. Gartrell, about ten leagues distant from the city of Durango, and I requested that your excellency's government would take the competent measures for the arrest of the offender, his prosecution and punishment.

I very respectfully request from your excellency a reply to that note.

I renew to your excellency, &c.,

P. H. MORGAN.

[Inclosure 3 in No. 447.—Translation.]

Señor Mariscal to Mr. Morgan.

DEPARTMENT FOR FOREIGN RELATIONS,
Mexico, June 16, 1882.

MR. MINISTER: As soon as your excellency's note of the 30th December last, which refers to the assassination of Thomas Gartrell and his wife in the neighborhood of Durango, I transmitted its contents to the governors of the States of Chihuahua and Durango; to the first that he might be able to ascertain the name and obtain a description of the servant whom Gartrell had taken in the city of Chihuahua so that he might at once give them to the second, and they were both requested to cause the arrest of the supposed assassin and to have him delivered over to the competent authority.

The governor of Chihuahua replied on the 29th of the same month that he had issued the necessary orders as requested, and that he would inform the governor of the State of Durango of the result of his efforts. All of which I have the honor to inform your excellency in reply to your first cited note, and to the one which you addressed to me on the 10th instant.

Before closing the present note, I consider it to be my duty to explain to your excellency that if your above cited notes have no other purpose than to recommend an investigation of the crime committed, in order that justice may be done, the government takes pleasure in having complied with your request; but if, as in other cases, your excellency's official intention in the one in question is the omen of a reclamation, the government considers itself compelled, at once, through me, to declare to your excellency that it is not possible to accept your intervention, not only because there is nothing in the case to justify it, but because it does not appear on the register of matriculation in the department under my charge that Mr. Gartrell and his wife are citizens of the United States.

I renew to your excellency, &c.,

IGNACIO MARISCAL.

No. 214.

Mr. Frelinghuysen to Mr. Morgan.

No. 297.] DEPARTMENT OF STATE,
Washington, July 20, 1882.

SIR: I transmit herewith, for your information, a copy of a letter of the 10th instant from the Secretary of War, concerning a memorandum, compiled from official sources, concerning the movements of the American troops and the co-operation of the Mexican forces against the Chiricahua Indians from the San Carlos Reservation in Arizona Territory, previous to the almost total destruction of the remnant of those renegades by the troops of General Fuero of the Mexican army, as appears from a recent note to the Department from the minister of Mexico here, to whom I have appropriately communicated a copy of the memorandum only, as of probable interest to himself and his government.

I am, &c.,

FRED'K T. FRELINGHUYSEN.

[Inclosure 1 in No. 297.]

Mr. Lincoln to Mr. Frelinghuysen.

WAR DEPARTMENT,
Washington City, July 10, 1882. (Received July 12.)

SIR: Referring to previous correspondence respecting the incursions of the Chiricahua Indians into Mexican territory, particularly to your letters dated, respectively, May 3, and June 24, 1882, each inclosing a copy of a note upon the subject from the minister of Mexico here, I have the honor to inclose herewith a "memorandum" compiled from official telegrams and reports, showing the action taken by the military authorities in regard to the subject in question, the same having been submitted to this department by the General of the Army.

Very respectfully, &c.,

ROBERT LINCOLN,
Secretary of War.

Memorandum of the recent escape of Loco's band of Chiricahua Indians from the San Carlos Reservation, Arizona, and their pursuit into Mexico.

On the 17th of April last, Juh (the chief of the band of Chiricahuas which broke out in September, 1881) returned secretly from Mexico with some 60 of his band to the San Carlos Reservation and compelled the remainder of the Chiricahuas under Loco, consisting of about 40 men and 300 women and children, to leave the reservation.

They left on the night of April 18, 1882, killing the Indian chief of police, Sterling, and the police sergeant. They proceeded towards Fort Thomas, killing ten men, women, and children on Eagle Creek, and the murder of other citizens in the same valley was reported.

Lieutenant-Colonel Schofield, Sixth Cavalry, with two troops of his regiment from Fort Thomas, pursued the band, and part of the command under Lieutenant Sands overtook the fugitives and pursued them for three miles, but getting out of ammunition returned.

On the 20th of April, Captain Gordon, Sixth Cavalry, with 119 men (including an Indian scout company), left Fort Grant to intercept the band should they go out by Eagle Creek or Clifton.

The commanding officer District of New Mexico (Colonel Mackenzie) having been advised of the trouble, Lieutenant-Colonel Forsyth, with four troops of the Fourth Cavalry, at Sepor, N. Mex., were on the alert to co-operate.

General McDowell ordered Harris's troop of the First Cavalry to report to General Willcox, and immediate steps were taken to use all the troops in the Department of Arizona available.

On the 25th of April the General of the Army, then in San Francisco, telegraphed suggesting that a regiment of infantry from Texas might be ordered to report to Colonel Mackenzie to patrol the line of the Southern Pacific Railroad, so as to leave the troops in Arizona and New Mexico free to take the field.

The General also instructed General McDowell that Loco's band should be attacked wherever found, without regard to relative numbers.

Alarming reports were received of the loss of life, &c., from the depredation of the Chiricahuas, but many of the reports proved to be considerably exaggerated.

On the 24th of April, Lieutenant-Colonel Forsyth, with his command, found the hostiles in an impregnable position in Stein's Peak Range, New Mexico, where he attacked and fought them with a loss of 5 men killed and 5 men wounded, killing 2 Indians and wounding a number.

On the 26th April, General McDowell repeated a dispatch from General Willcox stating that Captain Overton, Sixth Cavalry, reported the Indians had killed many people along the Upper Gila, and that he was pushing forward on trail of main body towards Doubtful Cañon in Stein's Peak Range.

On the 26th, General Sheridan reported that Colonel Forsyth had a force of about 500 men (Fourth Cavalry and scouts) with him, and that he and Captain Tupper, with two troops Sixth Cavalry, was close on trail of the Indians. General Sheridan said he could send Third Cavalry at any moment.

April 28, General Willcox repeated by telegraph that the actual outbreak could be handled with the force in the department, but that as there were indications of fresh outbreaks reported, an additional regiment of cavalry and one of infantry should be sent. He also, on the same day, gave the strength of the troops in the Department of Arizona as 613 cavalry and 487 infantry.

On the 28th April, Captain Tupper, with Troops G and M, Sixth Cavalry, struck the Indians about 35 miles east of Cloverdale, and had a desperate fight with them, killing

12 or 15 Indians, including Loco's son, and capturing 70 head of stock. The fight lasted from daybreak till noon. Captain Tupper lost 1 man killed and 2 wounded.

Colonel Forsyth and Captain Tupper united; then continued the pursuit of the Indians towards Mexico.

May 2, General McDowell telegraphed that the governor of Arizona had called upon General Willcox for protection for the settlements, and that he therefore thought that General Willcox would need the additional troops asked for.

The First Infantry and Third Cavalry were thereupon definitely ordered to Arizona (General Orders of April 29 and May 1, from District of Missouri), and the Seventh Infantry, in Department of Dakota, was ordered to be held in readiness.

May 3, 1882, General Sheridan telegraphed that 13 Indians were killed in Captain Tupper's fight; that the Indians had crossed into Mexico and that Colonel Garcia with a column of Mexican troops had attacked the Indians, killing 78 and capturing 33. Colonel Forsyth returned to Sepor, N. Mex., from the pursuit of the Indians on the 4th of May, having kept up the pursuit of Loco's band until he received reliable intelligence of the practical annihilation by the Mexican troops under Garcia.

Colonel Forsyth reported the number of Indians killed from April 25 to 29 as 98 (including the 78 killed by the Mexicans).

June 3, General Sheridan telegraphed that a dispatch from General Fuero (commanding the Mexican forces in Chihuahua) to General Pope informed him that Juh's band of Apaches were defeated by the Mexican forces at Bosque de Santiago, May 25, with loss of 37 Indians killed and 10 captured, and this, with the losses of Loco's band in previous fights, practically finishes up the renegades from San Carlos.

June 5, General McDowell telegraphed that it was reported that various small parties of Indians were in the Whitestone, Dragoon, Huachuca and Chiricahua Mountains, and that troops from Forts Huachuca, Bowie, and Camp Price have been hunting them, while the San Pedro Valley and crossing of the Gila towards the San Carlos Reservation was guarded by troops from Forts Grant and Thomas.

No further disturbances at the San Carlos Reservation have been reported.

Upon the arrival of the First Infantry and Third Cavalry, they were distributed to the most exposed posts in Arizona.

On the 2d May (in response to a House resolution) the aggregate number of troops available in the Department of Arizona, after the arrival of the First Infantry and Third Cavalry, was stated to be 2,377 (approximate).

GEO. D. RUGGLES,
Acting Adjutant-General.

No. 215.

Mr. Frelinghuysen to Mr. Morgan.

No. 298.] DEPARTMENT OF STATE,
Washington, July 24, 1882.

SIR: I have received and considered your dispatch No. 447, of the 17th ultimo, transmitting copies of the correspondence which, in pursuance of the Department's instruction No. 189, of 10th November last, you opened with the Mexican foreign secretary in regard to the murder of Mr. and Mrs. Thomas Gartrell, near the city of Durango.

I cannot but express the regret I feel on observing Mr. Mariscal's statement that, if your representation of the facts is the omen of reclamation, the Mexican Government considers itself compelled at once to declare through him that it is not possible to accept your intervention, * * because it does not appear on the register of matriculation under Mr. Mariscal's charge that Mr. Gartrell and his wife are citizens of the United States.

This question of the prior necessity of matriculation, as an alien resident of Mexico under Mexican law, before a foreigner can be entitled, in Mexico, to the assertion of the rights which international law ascribes to all foreigners, is one of the few questions between the two countries which remain pending in an unsatisfactory condition.

The records of your legation show that the subject has been the occasion of discussion between the two governments for many years. As

you have doubtless familiarized yourself with the correspondence, I need refer to it no farther than to say that the divergence as to the manner in which the fact of matriculation was to be accomplished has been settled on the acceptance by the Mexican Government of the presentation of the visaed passport as evidence of foreign citizenship, and that the points remaining open concern only the rights which accrue to foreigners in virtue of such passport, or which may be denied to them in the absence of such further formality as is now insisted upon.

This government is not disposed to question the convenience of formal matriculation as evidencing the right of foreigners resident in Mexico to certain civil and domiciliary rights prescribed under the Mexican law. But it does question the claim of Mexico to debar from the protection of their own government citizens of the United States who may be temporarily in Mexico and who have not matriculated.

We hold, under the general principles of international law, that the right of an American citizen to claim the protection of his own government while in a foreign land, and the duty of this government to exercise such protection, are reciprocal, and are inherent in the allegiance of the citizen under the constitution of his own land, and that, inasmuch as this reciprocal right on the part of the citizen and duty on the part of his government is not created by the laws of any foreign country, it cannot on the other hand be denied by the municipal law of a foreign state. Holding thus, it is impossible for this government to accept the proposition that its right to intervene for the protection of one of its citizens in Mexico can only begin with, and be created by, the matriculation of such a citizen as a foreign sojourner in Mexico, and can only exist and be exercised with respect to the redress of wrongs which such a citizen may suffer there after his name shall have been inscribed on the books of the foreign office in the city of Mexico.

This last statement of the question is not a hypothetical one; it has become expressly enunciated by the Mexican foreign secretary in the case of your application for the matriculation of American citizens in whose behalf you had intervened.

Your own legal knowledge will show you that serious grounds exist in practice for questioning the Mexican contention on this point, even were its justice admitted, which it is not. For an American, say, for instance, a shipmaster in port, charged with some technical offense against the revenue, or arrested through the arbitrary action of an ignorant official, might, although he had no intention of sojourning in Mexico, and when it would not be claimed that there was any necessity for matriculation, be thus brought within Mexican jurisdiction under circumstances calling for the diplomatic intervention of his national protector. Or again, an American citizen when crossing the frontier on a merely temporary errand might be held to military service in the Mexican army and subjected to detention and personal loss and damage, for which, under the decision of Mr. Mariscal he could not claim relief unless armed with a certificate of matriculation obtained before the act complained of. And again, the property rights of an American might possibly be assailed in Mexico while he himself was not within Mexican jurisdiction. I have presented hypothetical cases. Others will occur to you wherein the rigid application of the doctrine enunciated by Mr. Mariscal would operate to bar all intervention for protection or redress.

I repeat, the *status* of a foreigner is, under international law, inherent, and neither created nor destroyed by Mexican law. The evidence of the foreign *status* of an individual consists in the facts as they exist, or by the authentic certification of his own government as in the form of

a passport; it does not originate in compliance with a Mexican municipal statute.

I desire that when you have familiarized yourself with the subject in its legal and international aspects, and in view of the precedents furnished by your legation files, you will present the question earnestly to the attention of Mr. Mariscal. In doing so, while your representations will of course be temperate and courteous, you should make it apparent that the United States cannot recognize the fact of matriculation as controlling the right of a citizen of the United States to ask the intervention of this government in case of need.

As the treaties between the two countries which express the reciprocal rights and privileges of their citizens in the territories of the other have been terminated recently by the act of Mexico, your arguments must necessarily rest on the principles of international law. In fact, the absence of specific treaty stipulations is quite immaterial; treaties do not create the personal rights of men, they may recognize their existence and define their exercise within certain practical and convenient bounds.

You should, further, be careful to dissociate this important subject from the specific case of the Cartrells, or any particular reclamation now pending. Such cases rest on their merits. This matriculation question rests on a higher plane, it concerns our right to protect our citizens by presenting the facts in their cases and asking consideration thereof according to the recognized principles of justice and equity.

I am, &c.,

FRED'K T. FRELINGHUYSEN.

No. 216.

Mr. Davis to Mr. Morgan.

No. 309.] DEPARTMENT OF STATE,
Washington, August 18, 1882.

SIR: I transmit herewith, for your information, six copies of an agreement between the United States and Mexico, signed and exchanged July 29 ultimo, providing for the reciprocal right to pursue savage Indians across their respective boundaries.

I am, &c.,

JOHN DAVIS,
Acting Secretary.

[Inclosure in No. 309.]

MEXICO: RECIPROCAL RIGHT TO PURSUE SAVAGE INDIANS ACROSS THE BOUNDARY LINE.

[Agreement between the United States and Mexico. Signed and exchanged July 29, 1882.]

Memorandum of an agreement entered into, in behalf of their respective governments, by Frederick T. Frelinghuysen, Secretary of State of the United States of America, and Matias Romero, Envoy Extraordinary and Minister Plenipotentiary of the Republic of Mexico, providing for the reciprocal crossing of the international boundary line by the troops of the respective governments in pursuit of savage Indians, under the conditions hereinafter stated.

ARTICLE I.

It is agreed that the regular federal troops of the two republics may reciprocally cross the boundary line of the two countries, when they are in close pursuit of a band of savage Indians, upon the conditions stated in the following articles:

ARTICLE II.

The reciprocal crossing agreed upon in Article I shall only occur in the unpopulated or desert parts of said boundary line. For the purposes of this agreement the unpopulated or desert parts are defined to be all those points which are at least two leagues distant from any encampment or town of either country.

ARTICLE III.

No crossing of troops of either country shall take place from Capitan Leal, a town on the Mexican side of the Rio Bravo, twenty Mexican leagues (52 English miles) above Piedras Negras, to the mouth of the Rio Grande.

ARTICLE IV.

The commander of the troops which cross the frontier in pursuit of Indians shall, at the time of crossing or before if possible, give notice of his march to the nearest military commander or civil authority of the country whose territory he enters.

ARTICLE V.

The pursuing force shall retire to its own territory as soon as it shall have fought the band of which it is in pursuit or have lost its trail. In no case shall the forces of the two countries, respectively, establish themselves or remain in the foreign territory for any time longer than is necessary to make the pursuit of the band whose trail they follow.

ARTICLE VI.

The abuses which may be committed by the forces which cross into the territory of the other nation shall be punished by the government to which the forces belong, according to the gravity of the offense and in conformity to its laws, as if the abuses had been committed in its own territory, the said government being further under obligation to withdraw the guilty parties from the frontier.

ARTICLE VII.

In the case of offenses which may be committed by the inhabitants of the one country against the foreign forces which may be within its limits, the government of said country shall only be responsible to the government of the other for denial of justice in the punishment of the guilty.

ARTICLE VIII.

This agreement shall remain in force for two years, and may be terminated by either government upon four months' notice to the other, to that effect.

ARTICLE IX.

As the Senate of the United States of Mexico has authorized the President of that republic, in accordance with paragraph III, letter B, section III, of article 72d of its constitution, as modified on the 6th of November, 1874, to allow the passing of Mexican troops into the United States and of United States troops into Mexico, and the Constitution, of the United States empowers the President of the United States to allow the passage without the consent of the Senate, this agreement does not require the sanction of the Senate of either country, and will begin to take effect twenty days after this date.

In testimony of which we have interchangeably signed this memorandum this 29th day of July, 1882.

[SEAL.] FRED'K T. FRELINGHUYSEN.
[SEAL.] M. ROMERO.

No. 217.

Mr. Morgan to Mr. Frelinghuysen.

No. 502.] LEGATION OF THE UNITED STATES,
Mexico, September 26, 1882. (Received October 12.)

SIR: The Mexican Congress opened its regular session on the 16th instant. I transmit herewith a copy and translation of the President's message. It is a carefully prepared and able document. The difficul-

ties between Mexico and Guatemala, it is stated, bid fair to be amicably adjusted.

The convention between the United States and Mexico for the reciprocal passing of troops of either nation across the Rio Grande, when in pursuit of hostile Indians, is announced; as also the convention for the appointment of a commission to replace the boundary marks between Mexico and the United States which have been destroyed or removed. And he cites as evidence of the friendly disposition of the United States towards this country the fact that the present administration has notified the Government of Guatemala that the President would not offer to mediate in the question of boundary with Mexico unless with the previous request of both parties; and the consent of the United States Government to the reopening of two cases decided by the mixed commission, in which, as he says, injustice had been done to Mexico.

That the best harmony exists between the federal government and the States, although he notices some political disturbances in the States of Jalisco and Zacatecas, the first of which has been settled and the second soon will be. That peace and personal security is enjoyed throughout the country.

That the progress of international improvement has been constant and remarkable; noticing that the Central Railroad Company has completed its line to Leon, when it had only contracted to do so by the 31st December, 1882, as well as the line from El Paso to Chihuahua; that instead of 400 kilometers which it had agreed to complete every two years, more than double the work had been accomplished, and that they had now more than 900 kilometers in operation, from which, judging by the past, it may be expected that they will complete their contract long before the time agreed upon. That the "Nation Construction Company" were operating about 500 kilometers of road; the Sonora Company, 300 kilometers; the road from Mexico to "Los Reyes é Isolo," and from that point to Pueblo, 96 kilometers; the company from Altata to Culiacan, 52; and the San Marcos, 47; in all exceeding 3,000 kilometers of road.

The forfeiture of the Tehuantepec is noticed.

The extension of telegraphic communication has increased 4,000 kilometers, giving now an extent of nearly 4,000 leagues, Mexico being now connected by wire with nearly all the nations of the globe. The effort at colonization is noticed and stated to have been reasonably successful. Uncultivated lands have been entered by 376 parties to an extent covering 294,000 hectares.

Schools of theory and practice have been established and plans are being matured for establishing industrial and metallurgy schools and for the forming of a mineral association which is to extend throughout the country.

Attention is called to the wasteful destruction of timber, and Congress is called on to pass such laws as will protect the forests.

The treasury is represented to be in a condition of prosperity heretofore unknown, the revenue collected during the fiscal year which ended on the 30th June last, having exceeded $30,000,000, of which $17,000,000 was derived from duties on imports.

The expenses of the government have been regularly met, including $8,000,000 paid in subsidies to railroad companies. All of which is attributed to the condition of peace which the country has enjoyed during the last six years.

A commission has been established for the purpose of proposing such changes in the tariff laws as the exigencies of the trade seem to require.

The operations of the army against the Indians are extolled, and men-

tion is made of the acknowledgment thereof by our Secretary of War and the General of the Army.

The message concludes by expressing the belief that if the affairs of the country continue to prosper in the future as they have during the last few years, that the Mexican people in the year 1921 will celebrate the centennial of their independence with the same legitimate pride that the people of the United States celebrated theirs in 1876.

I am, sir, &c.,

P. H. MORGAN.

No. 218.

Mr. Morgan to Mr. Frelinghuysen.

No. 503.] LEGATION OF THE UNITED STATES,
Mexico, September 27, 1882. (Received October 12.)

SIR: Your dispatch No. 298, 24th July, 1882, was duly received.

It related to the position assumed by the Mexican Government, under Mexican legislation, that diplomatic intervention is not admissible on behalf of citizens of the United States unless they have been previously registered at the department for foreign affairs, as foreigners.

I was instructed to make it apparent that the United States cannot recognize the fact of matriculation as controlling the right of a citizen of the United States to ask the intervention of this government (the United States) in case of need.

Your instructions were complied with in a note which I addressed to Señor Mariscal, on the 21st instant, a copy of which I inclose.

In this note I endeavored to show:

1st. That there is nothing in the laws of 16th March, 1861, and 6th December, 1866 (the laws upon which the position of the Mexican Government upon the subject of matriculation is maintained), which precludes diplomatic intervention on behalf of foreigners who have not matriculated in the Mexican department for foreign affairs.

2d. That these laws render inoperative and of no effect guarantees contained in several articles of the Mexican Constitution, and, therefore, are not binding.

3d. That they are in conflict with the laws of nations, and, therefore, not obligatory upon the United States.

I have to thank you for furnishing me with the most important arguments which my note contains. As you will perceive, I made free use of them.

I have received no reply, as yet, from Señor Mariscal, but I have considered it proper to inform you of what I have done.

I am, &c.,

P. H. MORGAN.

[Inclosure in No. 503.]

Mr. Morgan to Señor Mariscal.

LEGATION OF THE UNITED STATES,
Mexico, September 25, 1882.

SIR: Your excellency's government, in the correspondence which has taken place between the department for foreign affairs and this legation during several years past, has denied the right of diplomatic intervention in behalf of citizens of the United States who are not matriculated at the foreign office: and has also maintained that matriculation has no retroactive effect, that is, where diplomatic intervention is of-

fered on behalf of a citizen of the United States who is matriculated, if the cause for intervention arose anterior to the matriculation, the intervention will not be admitted.

The first part of the proposition I find announced in Señor Avila's note of my predecessor, Mr. Foster, of the 19th of November, 1878 (case of Emilio Boig), and in your excellency's note to me of the 12th December, 1881 (case of Walter Coffin), and 4th April, 1882 (case of Shields and Weber), 13th April, 1882 (case of Leonard *et als*), of the 15th May, 1882 (case of Connelly, Younmans, and Arnold), and of the 16th June, 1882 (case of Thomas Gartrell and wife).

I find authority for the second proposition in your note to me on the 26th of April, 1882, relating to the case of Patrick and Edward Leonard and others, which, as they are familiar to you, it is not necessary I should do more than refer to them.

Your excellency will understand that the cases cited in the correspondence referred to, or those which I may hereafter mention in this note, have not been, nor will they be, mentioned with a view of discussing them at this time. They have their own place and opportunity, and stand upon their own merits. This matriculation question rests upon a higher plane than individual cases. It concerns the right of the Government of the United States to protect its citizens by presenting the facts in their cases, and asking consideration thereof according to the recognized principles of justice and equity. I have referred to them here simply for the purpose of stating what I understand to be the ground which your excellency's government has assumed with reference to diplomatic intervention in behalf of foreigners, viz: That no diplomatic intervention is admissible on behalf of any foreigner who is not registered as such at the department for foreign affairs; that diplomatic intervention will not be admitted on behalf of a foreigner who is matriculated, if the fact upon which intervention is based occurred before the date of his matriculation.

The first proposition of your excellency's government rests, as I understand it, on the 10th article of the decree of the 16th of March, 1861, which declares: "Tampoco se admitiza en ninguna de las oficinas de la republica reclamacion in gestion alguna de estranjeros, si al hacerla no presentaren el certificado de matricula, del que se tomará razon en el negocio que promuevan." Which I translate: "Neither shall there be admitted in any offices of the republic any claim or question on the part of foreigners, unless upon making or presenting the same, they present the certificate of matriculation, of which a record shall be made in the papers of the case.

The second is based on the second sentence in article 2 of the decree of the 6th of December, 1866, which declares: "En lo que se refiera al tiempo anterior a la fecha en que se inscriban y obtengan el certificado de matricula, no podrán hacer valor ningunos gestiones bajo el carácter de estranjeros." Which I translate: "So far as refers to the period previous to the date when they were inscribed and obtained the certificate of matriculation, *they* shall not enjoy any rights, neither should there be admitted any questions coming from them under the character of foreigners."

An attentive consideration of these two laws has failed to disclose to me anything in either of their sections which denies to a foreign nation or its diplomatic representative the right to interfere on behalf of any citizen or subject of that nation, in case the party on whose behalf intervention is made has not been matriculated.

They appear to refer exclusively to individuals in their individual capacity. They are silent as to any action accorded or denied to a foreign nation or to its diplomatic representative. It is a familar rule of construction that what is not expressly included in a law is excluded therefrom, and following this rule, as diplomatic intervention is not mentioned in these laws, I may assume that the omission was intentional on the part of the law maker. If this be so, then the omission cannot be supplied by the ministerial officers of government. The position assumed by your excellency's government, if this interpretation be a correct one, has, therefore, nothing to rest upon.

Should your excellency be of a different opinion, and find in the laws in question ample authority for the ground taken upon the subject before us by your government, then I have to submit that as, under international law, a nation has the right to ask, through its accredited representative, redress for wrongs inflicted upon its citizens or subjects by the illegal acts of the officials of the nation to which he is accredited, it follows that any attempt on the part of a government, in the form of an act of interior legislation, to deprive a nation of this right, and which would, if carried into effect, place the citizens or subjects of other nationalities beyond the protection of their respective governments, is a violation of the law of nations and is consequently null and void.

That the legislation in question does deprive citizens of the United States of the protection of their government I shall proceed to show. A citizen of the United States, residing at Brownsville, Tex., crosses over the Rio Bravo to Matamoras for the purposes of business or pleasure, intending to return to his place of residence the same day. As he steps upon Mexican soil, he is taken possession of by a recruiting sergeant of the Mexican army, and forced into the military service of the country. He appeals to this legation for protection. A request is made by it for his release.

Conforming to the opinion which your excellency's government has, up to now, held, the answer would be that inasmuch as the person in question had not been matriculated, diplomatic intervention in his behalf would not be admitted. And yet this man would have come into Mexico under the guarantees of the Mexican constitution, which permits, nay invites, free entry into its territory by people of other nationalities, and allows them to circulate therein without a passport or any species of safe-conduct. He would, moreover, have been in the physical impossibility of complying with the requirements of the Mexican law upon the subject of matriculation.

Should application be made to cause him to be matriculated upon a certificate of American citizenship, if the application was granted (as was done in the case of Patrick Leonard and others, above referred to) and intervention was then attempted in his behalf, the reply would be, as it was in Leonard's case, a simple reference to article 2 of the decree of the 6th December, 1866.

Take another example: An American ship arrives at a Mexican port. Her captain has no intention to remain in Mexico. On the contrary, his interests would require his departure therefrom at as early a date possible. It could scarcely be contended that such a person would need to be matriculated. Should he, while on shore upon business of his ship, be arrested, charged with some technical offense against the revenue, or through the arbitrary action of an official, and should this legation, on being informed of the facts, desire to call your excellency's attention to the case with the view of obtaining an order for his release, the answer would be that as he was not matriculated diplomatic intervention in his case was not admissible.

Again: The constitution of Mexico (article 16, if I am not mistaken) declares that, except in a case arising *flagrante delicto*, no person is to be molested in his person, his family, his domicile, papers, or property, except upon a written warrant, issued by a competent authority, in which warrant shall be stated the ground upon which it was issued.

The same instrument (article 17) declares that no man is subject to imprisonment for a purely civil debt.

By the same charter it is declared (article 19) that no imprisonment can exceed three days except by virtue of a judgment in which the cause of detention is stated.

Should either of these contingencies, expressly prohibited by the Mexican constitution, happen to an unmatriculated citizen of the United States, the diplomatic representative of his government, under the doctrine now held by your excellency's government, would not be conceded the right of calling his attention thereto.

The examples which I have cited are not entirely suppositious ones.

The intervention of this legation has been refused in cases where citizens of the United States have complained of illegal imprisonment, as in the case of Leonard, Shields, and Coffin. Its intervention has been refused, where it has been offered, in cases where the parties had matriculated after the fact, upon which the intervention had been tendered, had occurred (as in the case of Leonard and others). It has been denied in cases where parties not matriculated, or their representatives, have demanded damages against the Mexican Government, although those claims were presented through this legation, acting under instructions from the Department of State (as in the case of Youmans and others).

It has been denied by anticipation, in the case of Thomas Gartrell and wife.

It has been denied, as a right, on behalf of citizens of the United States impressed into the Mexican army, as in the case of Emilio Boig, and Felipe Burnato, and others. In the last two cases cited, your excellency's government informed this legation that the courts of the country were open for the redress of the wrongs of those parties, and that to them application must be made; and it may be suggested that in this respect foreigners are by the laws of Mexico under the protection of the law officers of the Mexican Government to the same extent that Mexicans are. But, in my opinion at least, when a citizen of the United States suffers a wrong at the hands of the officers of a foreign government in whose territory he happens to be, he has the right to have the matter brought by his minister to the notice of such government for redress, and this refused he has the right to demand protection from his own government; nor could that government refuse it to him. It would, under certain circumstances, be the duty of his government to attempt his protection even though he had made no personal application therefor.

For example: Should it come to the knowledge of the Department of State that a citizen of the United States had been impressed into the Mexican service and that he was not permitted to hold any communication with the representative of his government, it is certain that the Department of State would immediately direct the United States minister here to bring the matter to the notice of your excellency's government with the view to his discharge. According to the construction placed on the law under consideration, the case could not be examined because the man was not registered as a foreigner.

Your excellency will remember that in the correspondence which took place between this legation and the department for foreign affairs, in the case of Emilio Boig, the

position was assumed by your excellency's government that his American citizenship could not be recognized for the reason that his name did not appear on the register of matriculation. The same position was assumed in the case of Felipe Burnato and others.

In his note to Señor Avila, of the 23d November, 1878, my predecessor said:

"It is my duty, however, without loss of time, to enter my protest against the position assumed by your honor that said Boig is not entitled to be recognized as a citizen of the United States because he is not inscribed in the register of matriculation of the foreign office. I have heretofore notified the department of foreign affairs, and now desire to repeat in an earnest manner, that the Mexican Government cannot by any domestic legislation or regulations denationalize American citizens who may be traveling or resident in the country and who have committed no act to forfeit such citizenship."

And in his note to the same gentleman, of the 30th November, 1878, while acknowledging the discharge of Boig from the army, he felt compelled in reply to the position assumed by Señor Avila, that "while an American citizen in Mexico could not be recognized in that character unless he is inscribed on the register of matriculation in the foreign office, still he is not on that account deprived of his natural and civil rights, for the maintenance of which he can appeal to the courts and other authorities, enjoying the same rights in this respect as Mexican citizens," to say:

"But your honor seems to forget that Mexican citizens are on proper occasions subject to compulsory military service by their own government, while the treaty of 1831 expressly exempts American citizens from such service in Mexico. If, as in the present case, an American recently arrived, traveling from the frontier towards the capital, and before he has any fixed residence of even a temporary character, and hence no opportunity to be matriculated, is seized and placed in the Mexican army by force, he cannot obtain the protection of the treaty of 1831, but is to obtain the same treatment from the courts and authorities as Mexican citizens. Mexican citizens are subject to forced military service. Hence for all the purposes of his liberty and national rights, an American citizen circumstanced as above, is denationalized by the operation of the laws and regulations of the Mexican Government relating to matriculation. It was against such an unwarrantable claim that I was forced to enter my protest."

And in a note which I addressed to his honor Señor Fernandez on the 5th November, 1880, in reply to one from him of the 30th October, 1880, both referring to the alleged impressment of certain citizens of the United States into the Mexican army, whose release I had been instructed to ask for, and in which Señor Fernandez had said that the parties on whose behalf I had interposed must seek for relief in the courts of the country, I endeavored to show that his position was untenable and could not, I thought, be acquiesced in by my government, "which is mindful of its obligations towards its citizens, and which owes to them its protection in whatever country they may happen to be." The argument of my predecessor in the correspondence above quoted from, appears to me unanswerable, and I permit myself to express the conviction that the obligations of my government, as expressed in my note to Señor Fernandez, will never be evaded.

Even if I admit, then, that citizens of the United States who may be impressed into the military service of Mexico would be in the same position before the courts that citizens of Mexico under the same circumstances would be, it follows that this protection would not under all circumstances suffice them, as citizens of Mexico are, under certain circumstances, as has been already stated, liable to enforced military duty, while citizens of the United States, temporarily in Mexico, are not.

If the courts of the country are open to a foreigner placed in such circumstances, as it is claimed they are, I think I am not going too far when I say that a judgment of a court in his favor might turn out to be illusory; for, unless I have been greatly misinformed, it has happened, and that quite recently, that a judgment of a competent tribunal which ordered the discharge of a Mexican citizen from service in the Mexican army, into which service he had, as found by the courts, been illegally impressed, was refused execution by the officer in command of the barracks in which, in the opinion of the court, he was illegally detained. If this can be successfully done against a citizen of Mexico, it cannot be hoped that a citizen of the United States would, under the same circumstances, be more fortunate. And yet, in a case such as this, if the unfortunate man had from accident, or the impossibility of complying with the law, and after he had exhausted in vain the remedies allowed by Mexican law, should apply to the minister of his country for relief, that official would not be listened to, because as the man had not matriculated as a foreigner, diplomatic intervention in his behalf is not admissible. It cannot, it appears to me, be expected that the Government of the United States could withhold its protection to one of its citizens who should find himself in so unhappy a position as this. I am not unmindful of the fact that, in both the cases of alleged impressment which has been the subject of correspondence between this

legation and the department for foreign affairs, the first party was liberated from personal consideration for my predecessor's request, and that in respect of the latter four, three had been discharged, and one had escaped from the Mexican army, before your attention had been called to their case.

But the rights of citizens of the United States abroad do not depend upon mere courtesy, or upon the spontaneous act of justice of a government official. By another the courtesy may be omitted, the act of justice go unperformed. What his government has a right to expect in such a case is that justice be rendered to him according to the law of nations, applied for in the mode recognized by the law of nations. Neither have I lost sight of the fact that when the correspondence upon this subject took place the treaty of 1831 was in force, and that that treaty, by denouncement of the Mexican Government, no longer exists. But the reciprocal rights of citizens of a friendly nation, who happen to be in the territory of the other, do not rest entirely upon treaties. In fact, as your excellency knows, treaties do not create the personal rights of men, although they may recognize their existence and define their exercise within certain practical and convenient bounds. In this regard they are protected by the comity of nations; and the right, nay the duty, of their government to ask, and to see to it to the extent of its power, that the rule of the comity of nations be applied to them, in whatever position of danger they may be placed by the wrongful acts of the officers of the government of the country in which they may find themselves, cannot, I think, be seriously questioned; nor, can the denial of the right be justified on the ground that it is not admitted by a local law.

Again: Mexican law recognizes diplomatic intervention in judicial proceedings, where there has been a denial of justice.

One phase of a denial of justice is the failure of the judge to decide a case which has been submitted to him.

Suppose a citizen of the United States, who resides in the United States and who has never been in Mexico, to be a creditor of a citizen of Mexico. He institutes suit against his debtor in the courts of Mexico. The judge before whom the suit is instituted refuses or neglects to decide, until refusal or neglect becomes a denial of justice. After having exhausted in vain every means within his reach to obtain a decision he appeals for diplomatic intervention. The reply would be that as he is not matriculated diplomatic intervention in his behalf is not to be admitted; and yet the man would never have been where matriculation was necessary or possible to him. The same may be said with reference to a foreign creditor of the Mexican Government. If the judge before whom he has to present his complaint refuses to give him an audience, he is entirely powerless, under the position assumed by your excellency's government. The admission on the part of the Mexican Government that a person is a citizen of the United States, does not make him a citizen thereof, nor does his failure to matriculate take away his citizenship. This *status* does not depend, or the right which he has of asking for the protection of his government upon his compliance with the requirements of the legislation of a foreign country, but upon his own. This citizenship follows him into whatever country he may go, and the duty of his government to protect him so long as he does nothing to forfeit his citizenship accompanies him.

This duty his government must discharge, and it could not, if it would, be relieved therefrom by the fact that the municipal law of the country where he happens to be has seen fit to provide under what circumstances he is permitted to appear, as a foreigner, before the authorities of the country. Such a law cannot touch his government for governments are bound only by treaties, or in their absence by the law of nations, and there is nothing in that law which recognizes in one nation the right, by the enactment of a municipal law, to say how, or when, or under what circumstances another government may, or may not, ask justice in behalf of one of its citizens or subjects.

In any discussion arising diplomatically between the United States and any other country with reference to the rights of a citizen of the former, how could that government accept the answer that a citizen was not entitled to its protection, in case of need, simply because he had not complied with a mere internal regulation of the country in which he happened to be?

And here I have to call your excellency's attention to the fact that if the doctrine asserted by the Mexican Government be admitted, Mexico has possessed herself of the power to prevent diplomatic interference in behalf of foreigners.

For as the right of foreign governments to interpose depends upon the fact of matriculation, and as matriculation is an act of officials of the Mexican Government, to compel the performance of which is not within the competence of a foreign power, it follows that a Mexican official has only to refuse or neglect to perform his duty to make diplomatic intervention in behalf of a foreigner impossible.

The Government of the United States cannot consent to allow its citizens to be placed in such a position. I am not, and as I understand it my government is not, disposed to question the right of Mexico, as a mere convenience to herself, to require of every citizen of the United States who comes to Mexico that he should enroll him-

self as such, although this should, it appears to me, be qualified by time, place, and circumstances. This is a matter of internal police, the failure to comply with which might entail upon the delinquent himself certain inconveniences and penalties, but it would not make him any the less a citizen of the United States, nor relieve his government from the obligation, the case arising, to afford him its protection, which protection, in the first instance at least, can only be asked for through the diplomatic representative of his country. Because he happens to have neglected to comply with what at most is a mere police regulation, it does not follow that the laws and comity of nations may be violated in his person, and his government be without authority to call attention to such violation according to the methods of the law of nations, viz, through its diplomatic representative.

The general principles of international law, that the rights of an American citizen to claim the protection of his own government while in a foreign land, and the duty of his government to exercise such protection, are reciprocal and are inherent in the allegiance of the citizen under the constitution of his own land; and inasmuch as this reciprocal right on the part of the citizen and duty on the part of his government is not created by the laws of any foreign country, it cannot on the other hand be denied by the municipal law of a foreign state. The *status* of a foreigner is, under international law, inherent, and neither created nor destroyed by Mexican law.

The general principles of international law, also, insure to foreigners hospitable treatment and kindly usage from the authorities of the country in which they happen to be, and the duty rests upon their government to see that these laws are not violated in their person. The Mexican law in question which has the effect to deprive a citizen of the United States of the right to the protection of his government is, in my judgment, as I have heretofore stated, contrary to the law of nations, and is therefore not obligatory upon it. The question, the discussion of which I have now brought to an end, is one of grave and serious import. It has been thoroughly and seriously considered by my government. It is, happily, one of the few outstanding ones between the two governments, and, in my opinion at least, it is the most important one of them all. For this reason, I have endeavored to show your excellency—

1. That there is nothing in the laws of 16th March, 1861, and of 6th December, 1866, which precludes diplomatic intervention on behalf of foreigners who have not matriculated in the Mexican department for foreign affairs.

2. That these laws render inoperative and of no effect guarantees contained in several articles of the Mexican constitution, and therefore are not obligatory.

3. That they are in conflict with the law of nations, and therefore "not binding upon the United States"; all of which I have done in obedience to the instructions which I have received to "make it apparent that the United States cannot recognize the fact of matriculation as controlling the rights of a citizen of the United States to ask the intervention of this government (the United States) in case of need."

I take great pleasure in renewing to your excellency the assurances of my distinguished consideration.

P. H. MORGAN.

No. 219.

Mr. Frelinghuysen to Mr. Morgan.

No. 329.] DEPARTMENT OF STATE,
Washington, October 17, 1882.

SIR: I have to acknowledge the receipt of your dispatch, No. 503, of the 27th ultimo, relative to the matriculation of United States citizens in Mexico, and to congratulate you upon your clear and forcible presentation of the subject to the minister for foreign affairs, thus strongly re-enforcing the views of this government on this important matter.

I am, &c.,

FRED'K T. FRELINGHUYSEN.

No. 220.

Mr. Frelinghuysen to Mr. Morgan.

No. 349.] DEPARTMENT OF STATE,
Washington, December 15, 1882.

SIR: I transmit herewith copies of a protocol of an agreement, signed and exchanged September 21, 1882, between Mr. Romero and myself,

modifying Article VIII of the agreement between the United States and Mexico of July 29, 1882, providing for the reciprocal right to pursue savage Indians across the boundary line.

I am, &c.,

FRED'K T. FRELINGHUYSEN.

[Inclosure in No. 349.]

Protocol of an agreement entered into in behalf of their respective governments, by Frederick T. Frelinghuysen, Secretary of State of the United States of America, and Matias Romero, envoy extraordinary and minister plenipotentiary of the Republic of Mexico, modifying Article VIII of the agreement signed in Washington, on the 29th of July, 1882, providing for the reciprocal crossing, in the unpopulated or desert parts of the international boundary line, by the regluar federal troops of the respective governments, in pursuit of savage hostile Indians.

ONLY ARTICLE.

Article VIII of the agreement signed in the city of Washington by the representatives of the United States of America and the United States of Mexico on the 29th of July, 1882, providing for the reciprocal crossing, in the unpopulated or desert parts of the international boundary line, by the regular federal troops of the respective governments, in pursuit of savage hostile Indians, under the conditions stated in said agreement, is hereby modified in the following terms:

"ARTICLE VIII. This agreement shall remain in force for a year from the 18th of August, 1882, and may be terminated by either government at any time upon four months' notice to the other to that effect."

In testimony of which we have interchangeably signed this protocol this 21st day of September, 1882.

FRED'K T. FRELINGHUYSEN. [SEAL.]
M. ROMERO. [SEAL.]

CORRESPONDENCE WITH THE LEGATION OF MEXICO AT WASHINGTON.

No. 221.

Señor Zamacona to Mr. Blaine.

[Translation.]

LEGATION OF MEXICO IN THE UNITED STATES,
Washington, October 7, 1881. (Rec'd Nov. 22.)

Mr. SECRETARY: Referring to the satisfactory interview which I had on Thursday last with the Acting Secretary of State (on which occasion, while alluding to the movements of Indians in Arizona, I spoke to him of the result which usually follows the operations of the United States troops against the savage tribes, which is that the latter simply transfer the scene of their depredations to Mexican territory), I herewith inclose a telegram (original) which I have just received from the Mexican consul at Tucson, whereby it will be seen that my fears are on the point of being realized. This induces me to refer to my verbal statements, and to ask that the attention of the War Department may be called to the fact to which I have above adverted, to the end that every practicable means may be adopted for the punishment and destruction of the rebel bands before they cross the dividing line between the two republics.

I avail, &c.,

M. DE ZAMACONA.

No. 222.

Señor Zamacona to Mr. Blaine.

[Translation.]

LEGATION OF MEXICO IN THE UNITED STATES,
Washington, October 10, 1881.
(Received October 12.)

Mr. SECRETARY: The accompanying extracts, copied from an Arizona newspaper, corroborate the statements which I have had the honor to make to the Department of State, both verbally and in writing, in regard to the state of insecurity which prevails on that portion of the frontier, and from which the adjacent districts of Mexico are sufferers.

The note with which the Department of State was pleased to honor me on the 29th of August last convinces me that the evil in question is not a matter of indifference to the Department of State, and I therefore lay before it the inclosed data, availing myself of the opportunity to express the hope that the Department will, when it shall have received information thereof, communicate to this legation the result of the steps taken by it with a view to securing the restoration of order in those frontier districts in which lawlessness has become most prevalent.

I have, &c.,

M. DE ZAMACONA.

[Inclosure.—Extracts from the Epitaph, August 12 and 13, 1881.]

* * * It is a well-known fact that in the southeastern part of this county there is a band of desperadoes variously estimated at from fifty to one hundred men, whose crimes have deserved the severest penalties, and yet we hear of no effort for their capture. It is true their depredations have been committed principally upon citizens of our sister republic, but that is no reason why they should go unpunished.

* * * * * * *

News was brought to town yesterday of further depredations by a party of five men, who are supposed to belong to the gang of outlaws infesting this county calling themselves "Rustlers." They are principally from Western Texas and Lincoln Co., New Mexico, from whence they have been driven by an outraged community, and now seem to have found the place they long have sought, where they can commit their depredations without fear of arrest. For a long time this gang have committed crimes and confined themselves and their operations to the east of Tombstone, and along the line of Sonora, but seeing that no steps were taken for their arrest they have become emboldened to take up their haunts and perpetrate their depredations nearer the center of business and population.

* * * * * * *

WASHINGTON, *October* 10, 1881.

A true copy.

JOSÉ T. DE CUELLAR, *Prio.*

No. 223.

Mr. Hunter to Señor Zamacona.

DEPARTMENT OF STATE,
Washington, October 20, 1881.

SIR: I have the honor to acknowledge the receipt of your note of the 10th instant, in further relation to the complaint of your government of

alleged lawlessness in Arizona, and the pleasure to inform you in reply that copies of your note have been forwarded to the Secretaries of the Interior and War Departments, in the earnest belief that all possible efforts in the interest of peace and security on the frontier will be vigorously instituted, and pursued toward the accomplishment of that desirable end.

I avail, &c.,

W. HUNTER,
Acting Secretary.

No. 224.

Mr. Blaine to Señor Zamacona.

DEPARTMENT OF STATE,
Washington, November 15, 1881.

SIR: I have the honor to refer to my note to you of August 29 last, relative to the unfortunate condition of affairs existing on both sides of the border, and beg to invite your attention particularly to the circumstances of your complaint of the hanging of José Ordiña, a Mexican citizen, by certain residents of Arizona, for horse stealing, having recently received a letter upon that subject from Mr. John J. Gosper, acting governor of that Territory.

In furtherance of the Department's request to ascertain the facts connected with the hanging of the individual referred to, Mr. Gosper called in person upon the Mexican consul at Tucson to obtain from him directly everything in relation to the deplorable circumstance.

It appears that the only information the consul possessed upon the subject was derived, first, from a lady who wrote him at the time of the occurrence; and second, from Mr. Paul, the sheriff of Pima County, a copy of whose letter to the Mexican consul at Tucson accompanies your note of August 8, 1881.

A personal interview was also had with Mr. Paul, who was requested to narrate all the facts as far as he was familiar with them. "His statement to me, by word of mouth," adds Mr. Gosper, "was substantially as stated in his communication to the consul of Mexico, with the additional statement, that the citizens of the Gila whose horses had been stolen were as certain that the two men whom they had captured were regular horse-thieves as though they had been tried in court and regularly proven as such; that they did not intend to take the life of Ordiña, only intending to let him hang long enough to compel him to give information of the whereabouts of the stolen animals, and by mistake let him hang too long." Mr. Gosper states, also, that he learned from other credible sources that the two Mexicans adverted to as in part the subject of the Department's correspondence were, without doubt, habitual thieves.

While admitting to the Mexican consul the illegal and unfortunate circumstance of the hanging of one of these men without due process of law, yet it appears from the acting governor's communication that the consul agreed with him that the two men in question were probably outlaws, and that even if the persons connected with the hanging of one of them were to be arraigned before a court of justice it was doubtful if there could be found a witness to appear before the magistrate to testify against them.

The consul was assured by Mr. Gosper that in the event of further knowledge upon the subject coming to him he would promptly act in the interest of peace and the enforcement of the law.

In this connection it seems not inappropriate to include, for your further information, two paragraphs from Mr. Gosper's letter to me upon the general subject of plunder and lawlessness on both sides of the border, believing, as I do, that, coming from such a source, they will not only serve to dispel all idea that the prevailing condition of things may be directly attributable to the acts of American citizens alone, but will suffice to convince you of the actual situation of affairs in that quarter, in which your own citizens are not infrequently prominently concerned.

I quote from the letter of Mr. Gosper, who states as follows:

While it is true Americans on our side of the line dividing the United States from Mexico are often guilty of murder and theft upon citizens of Mexico, it is equally true that Mexicans on their side of said line are equally guilty with Americans in the matter of murder and theft; and until recently, since the cow-boy combination along the borders for plunder, the crimes committed against the citizens of both the Governments of the United States and Mexico along the border were, in most part, committed by citizens of Mexico.

While the local and general civil authorities of both governments should be active and earnest in enforcing the laws, I think the civil authorities of the Government of Mexico are sometimes perhaps more sensitive over crimes committed by Americans than the circumstances in particular cases would justify. Mere rumor and false statements often, for a time, create an uneasiness which a knowledge of the facts quickly dispels.

In conclusion, I beg to repeat what must be already known to you, that the Department has uniformly given to your several complaints in relation to the border difficulties every possible attention, and has sought upon each occasion the co-operation of the competent officers of this government to remedy, as far as may lie in their power, the evils complained of. I shall do so in the present instance, in view of the statements contained in Mr. Gosper's letter; and in connection with the general subject of our border troubles, it gives me pleasure to inclose herewith for your information a copy of a letter from the Secretary of War of the 1st instant, from which it appears that all proper assistance will be given by his department to effect a better and more satisfactory condition of affairs in that section.

I can confidently assure you of the desire of the general government to suppress all unlawful disturbances and maintain a proper respect for law and order on the border, and that it will willingly pursue such means as may be found practicable to obtain that result.

Believing, as I do, therefore, that, recognizing the necessity for increased vigilance on the part of the Mexican authorities in that quarter, that you will not fail to impress this upon your government in order that it may adopt and vigorously prosecute all possible measures calculated to insure that desirable end, and regretting deeply the act by which a citizen of your government lost his life in Arizona,

I beg, &c.,

JAMES G. BLAINE.

Mr. Lincoln to Mr. Blaine.

WAR DEPARTMENT,
Washington City, November 1, 1881.

SIR: I have the honor to acknowledge the receipt of your letter of the 20th ultimo, inclosing a copy of one of the 10th ultimo from the minister of Mexico at this capital, relative to the existence of lawlessness upon the border in Arizona, which is detrimental to the interests of the Government of Mexico.

Observing that previous papers, from the military authorities, in relation to the

subject in question have recently been forwarded to the Department of Justice, and that, in reply thereto, the honorable the Attorney-General informed this department that the United States attorney and marshal of Arizona had been instructed to use all diligence in arresting the outlaws and bringing them to justice, I beg to add, that a copy of your letter above mentioned and its inclosures have been forwarded, this day, to the honorable the Attorney-General, with request that this department be advised of the action thus far had under the instructions above referred to, with especial reference to the result accomplished; and that the department be also furnished with an opinion as to whether it would be lawful, and to what extent lawful, to use the military forces of the United States for the suppression of the unlawful organizations referred to.

Upon receipt of reply, the information therein contained will be promptly communicated to the Department of State.

Very respectfully, &c.,

ROBERT T. LINCOLN,
Secretary of War.

No. 225.

Señor Zamacona to Mr. Frelinghuysen.

[Translation.]

LEGATION OF MEXICO IN THE UNITED STATES,
Washington, February 18, 1882. (Received February 22.)

Mr. SECRETARY: The consul of Mexico at Tucson, Ariz., has reported to my government that the Chiricahua Indians who escaped from the San Carlos Reservation have invaded the districts of Ures, Arispe, and others of the State of Sonora, and have committed certain depredations, of which, in their turn, report has been made by the authorities of those districts.

In a dispatch which I have just received from the office of foreign relations, I am directed to address your Department, as I have the honor to do, asking it to be pleased to obtain the proper orders for redoubling vigilance over the Indian reserves in that part of the Territory and preventing the repetition of incursions so injurious to the tranquillity of our frontier districts.

I have, &c.,

M. DE ZAMACONA.

No. 226.

Mr. Frelinghuysen to Señor Cuellar.

DEPARTMENT OF STATE,
Washington, March 1, 1882.

SIR: I have the honor to acknowledge the receipt of Mr. Zamacona's note of the 18th ultimo, concerning reported depredations in Sonora by Indians from the San Carlos Reservation; and the pleasure to say in reply that copies of his note have been furnished to the Secretary of the Interior and the Secretary of War, who have been asked to adopt every proper measure in accordance with the request of the Mexican Government in the premises.

Accept, &c.,

FRED'K T. FRELINGHUYSEN.

No. 227.

Mr. Frelinghuysen to Señor Romero.

DEPARTMENT OF STATE,
Washington, March 13, 1882.

SIR: In further response to Mr. Zamacona's note of the 18th ultimo, I have the honor to herewith inclose a copy of a letter from the Secretary of War, showing that he has promptly taken proper steps to prevent, so far as possible, further incursions of the Chiricahua Indians into Mexican territory.

Accept, &c.,

FRED'K T. FRELINGHUYSEN.

Mr. Lincoln to Mr. Frelinghuysen.

WAR DEPARTMENT,
Washington City, March 6, 1882. (Received March 7.)

SIR: I have the honor to acknowledge the receipt of your letter of the 1st instant, inclosing a copy of a note of the 18th ultimo, in which the late Mexican minister at this capital reports depredations in the State of Sonora by the Chiricahua Indians who escaped from the San Carlos Reservation, and asks, pursuant to the instructions of his government, that renewed vigilance be exerted in that quarter to prevent similar occurrences in future.

In reply, I beg to inform you that, in the absence of the General of the Army from Washington, instructions will be sent direct to the commanding general Military Division of the Pacific, to take all possible steps to prevent the incursions of these Indians.

The General of the Army has already started on a journey intending to examine that country, and a copy of your letter and its inclosure will be sent him in order that he may have his attention brought to this subject while there.

Very respectfully, &c.,

ROBERT T. LINCOLN,
Secretary of War.

No. 228.

Mr. Frelinghuysen to Señor Romero.

DEPARTMENT OF STATE,
Washington, D. C., March 15, 1882.

SIR: Adverting to recent correspondence with your legation relative to depredations in the State of Sonora, by Indians from the San Carlos Reservation, I have now much pleasure in inclosing, for your information, a copy of a letter from the Secretary of the Interior, of the 8th instant, and of its accompaniment from the Commissioner of Indian Affairs to him, respecting that complaint. It will be observed, from these papers, that every possible effort for the prevention of similar occurrences in the future will be taken by the officers of this government, and it is earnestly hoped that the authorities of Mexico on the border will facilitate the successful prosecution of every proper measure adopted to that end.

Accept, &c.,

FRED'K T. FRELINGHUYSEN.

Mr. Kirkwood to Mr. Frelinghuysen.

DEPARTMENT OF THE INTERIOR,
Washington, March 8, 1882. (Received March 10.)

SIR: I have the honor to acknowledge the receipt of your letter of 1st instant, inclosing a note from Mr. Zamacona, late Mexican minister at this capital, in relation to depredations alleged to have been committed by Chiricahua Indians escaping from San Carlos Reservation, and in reply respectfully invite attention to the inclosed letter, dated the 7th instant, from the Commissioner of Indian Affairs, to whom the subject was referred.

Especial attention is requested to that portion of the Commissioner's communication (upon page 2) referring to efforts formerly made by this government for the removal from Mexican soil of certain Indians belonging on this side, but who had gained an asylum in the States of Sonora and Chihuahua, in the Republic of Mexico, and the cause of the partial failure in effecting such removal.

It is believed that in the case of those Indians whose removal was effected, and who are now in the Indian Territory, no one of them has ever returned to Mexico or given any trouble to this government since their removal thereto.

I am, &c.,

S. J. KIRKWOOD,
Secretary.

Mr. Price to Mr. Kirkwood.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, March 7, 1882.

SIR: I have the honor to be in receipt, by department reference, of a communication from the honorable Secretary of State, dated 1st instant, in which he incloses a note from Mr. Zamacona, the late Mexican minister at this capital, in which he reports depredations in the State of Sonora by the Chiricahua Indians who escaped from the San Carlos Reservation, and asks, pursuant to the instructions of his government, that renewed vigilance be exerted in that quarter to prevent similar occurrences in future.

In reply, I have the honor to state that it has been the aim of this office to fully and heartily co-operate with the Mexican authorities in any and all efforts that might be made to put a stop to raiding of renegades upon the border.

The agents at San Carlos and Mescalero have recently been instructed with reference to this matter. A copy of Mr. Zamacona's note will be forwarded to them, with instructions to redouble their efforts to prevent the trouble complained of. The San Carlos agent has been authorized to employ an additional force of thirty scouts.

In this connection permit me to express the belief that the Indians mentioned in the note of Mr. Zamacona do not all belong to reservations under the supervision of this bureau. The attention of the department has heretofore been called to the fact that the Lipans and other renegade bands from Mexico have for many years been engaged in marauding expeditions upon the border, committing serious depredations against our citizens in Texas, New Mexico, and Arizona, and after being trailed by our troops across the line have found an asylum in the border States of Mexico and a ready market for their plunder. It is true that some of these renegades formerly belonged to our reservations, and to effect their return large appropriations have been made by Congress, and special agents have been sent to Mexico to conduct them back to their reservations, but these efforts were not wholly successful, owing to the opposition of the local authorities there and to that of interested parties who, our agents state, "induced them to remain in Mexico for the purpose of carrying on trade with them for stolen property."

It, however, has been, and will continue to be, the aim of this bureau to adopt the most efficient measures to arrest and bring to justice all classes of Indian renegades and outlaws, without regard to nationality or tribe, who commit their forays upon Indians and law-abiding citizens upon both sides of the border.

I respectfully suggest that the State Department be advised of the action of this office respecting the Indians herein referred to.

I have, &c.,

H. PRICE,
Commissioner.

No. 229.

Señor Romero to Mr. Frelinghuysen.

[Translation.]

LEGATION OF MEXICO IN THE UNITED STATES,
Washington, April 6, 1882. (Received April 6.)

Mr. SECRETARY: Referring to the various communications which have been addressed by this legation to the Department of State of the United States relative to the depredations of cattle-thieves from the United States in the frontier States of Mexico, I now have the honor to send you a letter written by J. W. Evans, esq., United States marshal for Arizona Territory, dated October 12, 1881, and addressed to the Hon. Luis E. Torres, governor of the State of Sonora. This letter contains important revelations with regard to the robberies committed in the State of Sonora by the cowboys residing in Arizona Territory, which robberies have thus far not been checked by the United States authorities in that Territory, according to the statement of the United States marshal, who says that this fact is due to the lack of adequate instructions from the Department of Justice at Washington.

Believing that the United States Government is sincerely desirous to put an end to these outrages, I do not doubt that it will redouble its efforts for the apprehension and punishment of the Indians and plunderers on the frontier, and that suitable instructions to that end will be issued by the Department of Justice to its officers in that locality.

In pursuance of instructions received from the Mexican Government, I earnestly request that this may be done.

I reiterate, &c.,

M. ROMERO.

United States Marshal Evans to Governor Torres.

OFFICE OF UNITED STATES MARSHAL,
TERRITORY OF ARIZONA,
Tucson, Arizona, October 12, 1881.

DEAR SIR: As you are en route to the Eastern States, and the opportunity will probably present itself for you to represent to the proper authorities the great and irreparable injury the people of Sonora, Mexico, are suffering, and have been for more than a year past, at the hands of marauders invading Sonora from Arizona, I hope you will fully explain to your representatives the deplorable lawless condition of affairs existing on our border. It is my belief that the authorities at Washington have not been informed as to the magnitude of the depredations being constantly committed in Sonora by a band of marauders styling themselves cowboys, and making their headquarters in Sonora. There are two hundred to three hundred of these cowboys thoroughly organized, armed, and equipped. Our office can do nothing towards suppressing the raiding of these cowboys, unless special instructions are received from the Department of Justice in Washington, D. C. As I greatly desire that good feeling be maintained between Sonora and Arizona, I sincerely hope that the authorities at Washington may be induced to take immediate steps for the suppression of these marauders. Wishing you a pleasant trip and safe return,

I am, &c.,

J. W. EVANS.

No. 230.

Mr. Frelinghuysen to Señor Romero.

DEPARTMENT OF STATE,
Washington, April 13, 1882.

SIR: I have the honor to acknowledge the receipt of your note of the 6th instant, relative to depredations committed in Sonora, Mexico, by the cowboys from Arizona.

In view of the statements made in your note, I have communicated copies thereof to the Secretary of the Interior and to the Attorney-General, who have been asked to lend their active co-operation, through their respective authorities on the frontier, for the purposes of suppressing the evils complained of and of punishing any guilty parties.

Accept, &c.,

FRED'K T. FRELINGHUYSEN.

No. 231.

Señor Romero to Mr. Frelinghuysen.

[Translation.]

LEGATION OF MEXICO IN THE UNITED STATES,
Washington, April 17, 1882.

MR. SECRETARY: I have the honor to inform you that I duly transmitted to the Government of the United States of Mexico a copy of the note addressed by you to me on the 13th of March last, in amplification of the reply made to Mr. Zamacona's note of the 18th of February preceding, relative to the incursions of the Chiricahua Indians into Mexican territory, with which you sent me a copy of a communication from the Secretary of War, in which that officer stated that he had taken suitable measures to prevent, so far as possible, the raids of the Chiricahuas into Mexican territory.

I have just received the reply of the minister of foreign relations of Mexico, bearing date of March 29, 1882, whereby I am instructed to inform the United States Government that the Mexican Government will be glad to receive a report with regard to the measures adopted by the General-in-Chief of the United States Army and by the general in command of the Division of the Pacific, in pursuance of the instructions issued to them by the Secretary of War in relation to this matter.

I have, &c.,

M. ROMERO.

No. 232.

Mr. Frelinghuysen to Señor Romero.

DEPARTMENT OF STATE,
Washington, April 27, 1882.

SIR: I have the honor to transmit herewith for your information the inclosed copies of papers which I have received from the Secretary of

War, under date of the 14th instant, in relation to the appearance near Janos, Mexico, of a band of Indians who are said to have committed depredations in Sonora, and reporting the presence of "Jú," an Apache chief, at Corralitos, Mexico, with eight captive American children.

I have observed with pleasure the good disposition of the Mexican authorities at Janos, to aid in the capture of the raiders, and hope that a like spirit will continue to animate both the authorities of Chihuahua and the United States forces in their mutual relations, which are necessarily intimate, as the duty and danger are shared in common.

Accept, &c.,

FRED'K T. FRELINGHUYSEN.

Mr. Lincoln to Mr. Frelinghuysen.

WAR DEPARTMENT,
Washington City, April 14, 1882.

SIR: I have the honor to transmit herewith a copy of a communication from the commanding general Department of the Missouri, dated the 31st ultimo, who incloses papers sent to him by the commanding officer, district of New Mexico, relative to the appearance near Janos, Mexico, of a band of Indians, who are said to have committed depredations in Sonora, and reporting the presence of "Jú," Apache chief, at Corralitos, Mexico, with eight captive American children. He asks the Lieutenant-General to use such power as he can to bring about the co-operation of the troops of both countries along the frontier.

Very respectfully, &c.,

ROBERT T. LINCOLN,
Secretary of War.

LAGURIA ENCERIDLAS, MEXICO,
March 20, 1882.

COMMANDING OFFICER,
Fort Cummings, N. Mex.:

SIR: Some of the hostile Indians have left Sonora and have come into this State, Chihuahua; I was out prospecting west of here last week and found considerable signs in the north end of the Enceridla Mountains; since that time they killed a herder northwest from here; the trail indicates that the boys are on a raid; they have visited this country probably to raid on the grading camps on the Mexican Central Railroad, or are passing towards the Rio Grande.

This place is at the one hundred and sixty-second mile on the Mexican Central Railroad, southwest from El Paso; it is a crossing-place for the hostiles. Should I hear anything further from them I will write to you; there seems to be about thirty in the party. My address is Chihuahua, N. Mex.

Yours, respectfully,

VAN C. SMITH.

[Telegram.]

CORRALITOS, MEXICO, *March* 21, 1882.

General MACKENZIE,
Santa Fé, N. Mex.:

Ju, Apache chief, here. Think he will go for San Carlos. Has stolen ninety-three head of horses and mules from me. He has eight captive American children. Refer you to Richard Hudson, Grant County, N. Mex., who is here at present, for particulars. Any message to him will be forwarded to me. Any facilities you require will be furnished by me, should you happen to cross the line.

GEO. B. ZIMPLEMAN.

[Hot Springs Hotel, Richard Hudson, Proprietor.]

HUDSON, GRANT COUNTY, N. MEX.,
March 27, 1882.

MY DEAR SIR: In reply to your letter of the 25th instant, I would state that I had just returned from Janos, Mexico, when I sent the telegram from Major Zimpleman whom I left at Janos on the 22d instant; in regard to the Indians, it appears th about the 15th or 16th of this month they stole ninety head of horses and mules from the Corralitos Ranch; they also stole about twelve head from around the town of Janos. A day or two after they stole the animals from the Corralitos Ranch they sent in a squaw on one of the stolen animals for the purpose of having a peace talk, so Major Zimpleman took her and kept her prisoner, and sent word to the Indians that he would keep her till they brought in the horses and mules they had stolen from him; instead of doing what he requested of them, they went to his sheep herds and took a lot of his sheep, and took four of his sheep-herders prisoners; the next day he, Ju, let one of the herders come into [town] to tell the president (mayor) of the town that if the squaw belonging to his tribe was not brought to a place known as Casas de Janos (about 16 miles south of Janos), that he would kill the other three sheep-herders that he held as prisoners; so the president immediately sent a courier to Casas Grandes informing the "gefe politico" (county judge) of the fact; the gefe politico at once ordered the squaw brought to Janos, and with about 100 citizens and about 30 soldiers who were stationed there went up to where the Indians were, and exchanged the squaw for the three herders, at which meeting Maj. Geo. B. Zimpleman and his man Jack Lyle, were present—I failed to get there in time, but I got within a mile of the meeting, and could see what was going on very plainly with my field-glass—who told me all about it, and Jack Lyle smoked the pipe of peace with Jú; they informed me that there were about 30 Indians present at the meeting and that the chiefs Jú, Chind, Chise, Geronimo, and some other chief was present at the meeting; also that they promised to meet Major Zimpleman, the gefe politico, and the people the next day at a place called the Tres Alamos, about 3 or 4 miles nearer Janos; so I went up there the next day with one of my men and joined Zimpleman and four others; we all went to the designated spot and made our "smokes," the sign for a meeting, but no Indians came; so we came to the conclusion that they thought we meant to be treacherous with them (as the Mexicans of Janos have several times got them in for a peace talk and murdered them, Jú's band).

I then returned to Janos, leaving Zimpleman and Jack Lyle in his sheep camps, where he had been for several days previous; on my return to Janos I learned that the Indians had come within a few miles of the town, sent up their sign of a meeting (smoke), and sent in two squaws with ten animals—horses and mules—that had been stolen from Janos, which was a fact, as I saw the two squaws and talked with one of them who talks Spanish very well, and who was sent in to do the talking, the other one being one of Ju's wives (I learn he has three wives). So I wrote to Major Zimpleman to come to town at once; he did so the next morning, and we had a talk with the old squaw. She said they would bring Zimpleman's horses and mules in to Coralitos in a few days; so I left that day, March 22, after having dinner at 1 p. m. with Zimpleman and Rafael Ancheta. I would further state that I talked with one of the sheep herders who had been a prisoner, and he told me that they had a very large rancheria with a large lot of stock; that he should judge at least 300 Indians in all, men, women, and children. After close questioning, he gave as his opinion that there were at least 100 warriors. I believe I have written you about all the main points you wished to know. In conclusion would state I went down there after my stolen horses; that I recovered all my stock in Janos, Mexico, arrested the thief, and took two other animals and a wagon, besides all his personal property, and left him there in the guard-house with the civil officers, who promised me they would keep him safe till I got papers of extradition to bring him to the United States.

Very respectfully, &c.,

RICHARD HUDSON.

General R. S. MACKENZIE,
Santa Fé, N. Mex.

[Indorsements.]

HEADQUARTERS DISTRICT OF NEW MEXICO,
Santa Fé, N. Mex., March 30, 1882.

Respectfully forwarded to the assistant adjutant-general, Department of the Missouri, for the information of the department commander.

R. S. MACKENZIE,
Colonel Fourth Cavalry, Commanding.

HEADQUARTERS DEPARTMENT OF THE MISSOURI,
Fort Leavenworth, Kans., April 4, 1882.

Respectfully forwarded to the adjutant-general of the Military Division of the Missouri for the information of the division commander.

JNO. POPE,
Brevet Major-General, Commanding.

HEADQUARTERS DISTRICT OF NEW MEXICO,
Santa Fé, N. Mex., March 28, 1882.

GENERAL: Reports, which appear to be reliable, have reached me that a large band of Indians who are said to have committed depredations in Sonora have recently made their appearance near Janos. If this is true, and it is the intention af the military authorities of Mexico to proceed against them in order to punish their past offenses, will you be kind enough to inform me that I may have troops in position to follow them should they attempt to return to this side of the line. Should they be defeated by Mexican troops near Janos, these Indians will, without doubt, either retreat south to the rough mountains of the Sierra Madre, or, if your troops have, as I hope, the good fortune to beat them badly, will attempt to get back to the San Carlos Agency in Arizona, in which case I trust that my troops may be enabled to punish them still further.

Any co-operation or aid which I may be able to give, you may rest assured of receiving, provided I have information.

I regard this matter of the first importance to citizens on both sides of the frontier.

Very respectfully, &c.,

R. S. MACKENZIE,
Brevet Brigadier-General, U. S. Army, Commanding.

General CARLOS FLUERO,

General in Chief, Second Military Division, Mexican Republic, Chihuahua, Mexico.

Official.

JOSEPH H. DORST,
First Lieutenant and Adjutant Fourth Cavalry, A. A. A. General.

[Indorsement.]

HEADQUARTERS MILITARY DIVISION OF THE MISSOURI,
Chicago, April 10, 1882.

Respectfully forwarded to the Adjutant-General of the Army.

Co-operation of the troops of both countries along the frontier would unquestionably be very beneficial, but it can only be effected through the effort of the State Department.

P. H. SHERIDAN,
Lieutenant-General, Commanding.

No. 233.

Mr. Frelinghuysen to Señor Romero.

DEPARTMENT OF STATE,
Washington, April 27, 1882.

SIR: Adverting to previous correspondence touching reported depredations in Sonora, by Indians from the San Carlos Agency, I have the honor to inclose herewith, for your information, copies of two letters from the Secretary of War, of the 6th and the 18th instant, respecting the troubles complained of.

Accept, &c.,

FRED'K T. FRELINGHUYSEN.

[Inclosure.]

Mr. Lincoln to Mr. Frelinghuysen.

WAR DEPARTMENT,
Washington City, April 6, 1882. (Received April 7.)

SIR: Referring to the reported depredations in the State of Sonora by the Chiricahua Indians who escaped from the San Carlos Reservation, which was the subject of

your communication of the 1st ultimo, I have the honor to invite your attention to the copy of a letter transmitted herewith, dated the 23d ultimo, from the commanding general of the Military Division of the Pacific, and the accompanying copy of his instructions of March 17, 1882, to the commanding general of the Department of Arizona on the subject; attention is also invited to the inclosed copy of a letter dated March 26, 1882, from the General of the Army, approving of the measures taken to prevent the incursions of these Indians.

Very respectfully, &c.,

ROBERT T. LINCOLN,
Secretary of War.

[Appendix 1 to inclosure.]

General McDowell to General Drum.

HEADQUARTERS MILITARY DIVISION OF THE PACIFIC
AND DEPARTMENT OF CALIFORNIA,
Presidio, San Francisco, Cal., March 23, 1882.

SIR: I have the honor to acknowledge receipt of copy of a communication from the late Mexican minister at Washington reporting depredations in the State of Sonora by the Chiricahua Indians who escaped from the San Carlos Reservation, and asking that renewed vigilance be exerted in that quarter to prevent similar occurrence in future, and also reply of the War Department thereto, dated March 6, 1882, forwarded by your indorsement of the 15th instant; and in answer thereto, I herewith inclose copy of my instructions, of the 17th instant, to the commanding general Department of Arizona on the subject.

I call attention to the fact, that our troops were in close pursuit of these Chiricahuas when they crossed into Mexico, greatly crippled, and that the commanding officer was prepared and desired to continue the pursuit across the boundary line, but was prevented from so doing by the protest of the Mexican authorities.

Had the Mexican troops taken up the pursuit of these savages when they first entered Mexican territory, or had the military authorities permitted our troops to continue operations against these Indians instead of protesting against their crossing the boundary line, even to get water, the request of the Mexican Government for redoubled vigilance on the part of the United States military authorities to prevent the repetition of incursions would come with more force.

I may be pardoned for saying that newspaper reports received here stated that the Mexican authorities tried to make a treaty with these Indians, and it was only after their endeavor in that respect had failed, and after the Indians had repeated in Sonora their murders and outrages, that the Mexican troops were sent in pursuit of them.

Very respectfully, &c.,

IRVIN McDOWELL,
Major-General, Commanding Division and Department.

[Appendix 2 to inclosure.]

Colonel Kelton to Commanding General Department of Arizona, Whipple Barracks, Ariz.

HEADQUARTERS MILITARY DIVISION PACIFIC AND
DEPARTMENT OF CALIFORNIA,
Presidio of San Francisco, Cal., March 17, 1882.

SIR: In reply to your telegram of the 15th instant, the division commander directs me to say that he thinks you should be the judge of what troops you can spare from Forts Apache and Thomas in the present quiet condition of the Indians on the San Carlos Reservation. But he also thinks if you can afford to take any troops from those posts you should not send them to Grant, but station them on the border, one troop at Huachuca, to replace Wagner's, of the First Cavalry, and one at Camp Rucker. In a few weeks the troops at Huachuca will be able to get to Willcox Station or any place on the railroad sooner than they would from Grant, and certainly, to keep the peace on the border and satisfy the reasonable wishes of the people of the Territory and carry out the instructions of the Secretary of War, the new camp at Rucker should be as large as you can possibly make it. The division commander, therefore, directs that any troops which you can relieve from Apache and Thomas be sent into camp at Rucker and Huachuca. With the two camps, each of two troops, and one company of infantry and one of Indian scouts, with a camp of observation with some scouts between these posts, and one to the east of Rucker, patrolling the border, the earliest information of Indians entering the Territory would be obtained. In case of any Indians

making away from San Carlos Reservation the troops at these camps would be in the best position to intercept them.

Of course these camps should be connected by telegraph or a system of seen signal stations with the general military telegraph system of the department, and that without delay.

The question of transportation will be but little affected by the change of station of troops. The transportation made necessary by the new camp at Rucker will be offset by the less demand for transportation at posts from which the troops at the camp came. But aside from this, should the reduction of your public transportation by one-fifth take place, there is no difficulty to be anticipated about supplying the troops at the new camp by contractors' transportation. An additional object for getting a command at an early day at or near the permanent site of the new post near Rucker is that a reservation of suitable size, embracing wood for building and fuel, with grass, and a rifle range, may be set aside and surveyed before the occupation of the country by settlers and before the building timber is claimed.

The fact that the troops may be obliged to make a temporary camp near water, instead of occupying at once the site which is selected for the new post, is a matter which should not be taken into consideration as affecting the movement of the troops intended for the new post.

The division commander in presenting these views looks forward to the early abandonment of both Forts Grant and Bowie, especially the former, and the concentration of so much of their garrisons at Rucker and Huachuca as will make each a four-company post—three troops of cavalry and one company of infantry. These large posts will necessarily compel the Mexican Government to build large posts near the northern border, perhaps on the Blackwater and at San Luis Springs.

If, in addition to these posts, the General of the Army recommends a large post in New Mexico, near Deming, their several garrisons will present great obstacles to any formidable raids from Mexico, and should be able to prevent the raiders from doing any considerable damage in Arizona and from escaping.

Very respectfully, &c.,

J. C. KELTON,
Colonel, Acting Adjutant-General.

[Appendix 3 to inclosure.]

General Sherman to General Drum.

HEADQUARTERS ARMY OF THE UNITED STATES,
Fort Bliss, Texas, March 26, 1882.

GENERAL: Your letter of March 15 met me here, and the instructions you have given General McDowell are of course all right.

* * * * * * *

The matter of which Señor Zamacona complains occurred some months ago, and next week I will pass over the very ground where this escapade of Chiricahuas occurred.

The new railroad now in full career will settle all these matters. * * * To-morrow I go 120 miles toward Chihuahua, and Governor Anthony has just been here and thinks the railroad will reach Chihuahua in all June, distance 225 miles, nearly all graded, and the track being laid at the rate of 1½ miles a day.

* * * * * * *

Truly, &c.,

W. T. SHERMAN.

[Inclosure.]

Mr. Lincoln to Mr. Frelinghuysen.

WAR DEPARTMENT,
Washington City, April 18, 1882. (Received April 21.)

SIR: Referring to your letter of the 1st ultimo, inclosing a copy of a note from the Mexican minister reporting depredations in Mexico by Indians who escaped from the San Carlos Reservation, I have the honor to inclose herewith, in connection with reports on the subject heretofore transmitted to you, copy of a letter from the General of the Army, dated Tucson, Ariz., April 11, 1882, to whom a copy of your letter and its inclosure was furnished.

Very respectfully, &c.,

ROBERT T. LINCOLN,
Secretary of War.

[Appendix to inclosure.]

General Sherman to Mr. Lincoln.

TUCSON, ARIZ., *April* 11, 1882.

SIR: I beg to acknowledge receipt, through General McDowell's headquarters, of a copy of the communication of March 1, 1882, from the honorable Secretary of State, transmitting a communication from the Mexican minister, reporting depredations in Mexico by Indians from the San Carlos Reservation, and to report that I have been in person to that reservation, as also on the Mexican border; that since October, 1881, there have been no Indians from the San Carlos Reservation in Mexico; that the Chiricahuas who then escaped fled from a supposed personal danger, and are now in Mexico, but that the Mexican military authorities were unwilling to permit our troops to pursue and capture them, expressing their ability to take care of them, and that since, up to the present moment, effectual measures have been taken by the military authorities of the United States to prevent any similar recurrences.

So far as my knowledge goes there is perfect peace along the national border at this time.

I have, &c.,

W. T. SHERMAN,
General.

No. 234.

Mr. Frelinghuysen to Señor Romero.

DEPARTMENT OF STATE,
Washington, May 3, 1882.

SIR: I have the honor to acknowledge the receipt of your note, of the 17th ultimo, relative to the measures adopted by the War Department for the prevention of future raids into Mexico by the Chiricahua Indians. Accordingly I have referred your request to the Secretary of War, and upon the receipt of his reply will gladly communicate its purport for the information of your government.

Accept, sir, &c.,

FRED'K T. FRELINGHUYSEN.

No. 235.

Señor Romero to Mr. Frelinghuysen.

[Translation.]

LEGATION OF MEXICO IN THE UNITED STATES,
Washington, May 12, 1882. (Received May 12.)

MR. SECRETARY: I have the honor herewith to transmit to you, for your information, a copy of a telegram which I have received from the secretary of foreign relations of the United States of Mexico, bearing date of May 11, whereby, as you will see, he informs me that the Senate has authorized the Executive to permit the crossing of troops on the basis proposed to the representative of the United States in November, 1880.

I will thank you to inform me whether this basis is acceptable to the United States Government, that I may in turn inform the Government of Mexico.

I have, &c.,

M. ROMERO.

Señor Mariscal to Señor Romero.

[Translation.—Telegram.]

CITY OF MEXICO, *May* 11, 1882.

TO MEXICAN MINISTER,
Washington:

The Senate has authorized the Executive to allow crossing of troops on conditions communicated United States Government in November, 1880.

MARISCAL.

No. 236.

Mr. Frelinghuysen to Señor Romero.

DEPARTMENT OF STATE,
Washington, May 12, 1882.

SIR: I have the pleasure to inclose for your information a copy of a letter from the Secretary of War of the 8th instant, in relation to the recent successful operations against the hostile Apaches on the border.

Accept, &c.,

FRED'K T. FRELINGHUYSEN.

Mr. Lincoln to Mr. Frelinghuysen.

WAR DEPARTMENT,
Washington City, May 8, 1882. (Received May 9.)

SIR: I have the honor to inclose for your information copy of a telegram from Lieutenant-General Sheridan, dated the 4th instant, stating that the very successful results obtained from the untiring pursuit of the hostile Apaches is due to the careful management of Colonel Mackenzie and Lieutenant-Colonel Forsyth and the arrangements made for the co-operation of the Mexican military commanders on the border.

A similar copy is furnished this day to the honorable Secretary of the Interior.

Very respectfully, &c.,

ROBERT T. LINCOLN,
Secretary of War.

[Telegram.]

HEADQUARTERS MILITARY DVIISION OF THE MISSOURI,
Chicago, Ill., May 4, 1882—12.30 *p. m.*

General R. C. DRUM,
Washington, D. C.:

The very successful result obtained from the indefatigable pursuit of the Apaches by Lieutenant-Colonel Forsyth is due to the careful management of Colonel Mackenzie and Lieutenant-Colonel Forsyth, in keeping scouts in Mexico to watch the Indians and making special and satisfactory arrangements for the co-operation of the Mexican military commanders on the border.

P. H. SHERIDAN,
Lieutenant-General.

No. 237.

Señor Romero to Mr. Frelinghuysen.

LEGATION OF MEXICO IN THE UNITED STATES,
Washington, June 1, 1882. (Received June 2.)

MR. SECRETARY: Thinking that it may be a matter of interest to the Government of the United States to receive official notice with regard

to the pursuit of the Indians who escaped from their reservation in Arizona Territory, rose against the authorities of this country and invaded the Mexican Republic in April last, I herewith send you a copy of an official communication from General Carbo, in command of the frontier zone of the State of Sonora, which contains an official report of the fight which took place on the 29th of April last between Colonel Lorenzo Garcia and the aforesaid Indians, who were completely routed.

This report was published in the official newspaper of the Government of the United States of Mexico on the 19th of May last.

I reiterate to you, &c.,

M. ROMERO.

[Inclosure.—Telegram.]

REPORT OF THE FIGHT WITH THE APACHES.

DEPARTMENT OF STATE AND OF WAR AND MARINE, MEXICO.

CITIZEN SECRETARY OF WAR: The governor of Sonora, under date of the 4th instant, telegraphs me from Hermosillo as follows:

"The general in chief of the first zone writes me under date of the 1st instant as follows:

"'For your satisfaction I have the honor to inform you that, at six o'clock a. m., day before yesterday, the two columns which I ordered to combine under the orders of Col. Lorenzo Garcia and Maj. Louis Ceroso, having united at Alvios Creek, in the State of Chihuahua, utterly routed a band of Apaches who had just been carrying on plundering operations in the United States, taking from them their booty, which consisted of horses and mules. They also took from them seventy-five dead bodies and twenty-eight wounded women. Some of the Indians escaped, fleeing in the direction of Casas Grandes.

"'This fight cost us the life of Capt. Antonio Roda, of the Sixth Battalion, and those of ten soldiers belonging to the same; also that of Lieut. Serapio Lugo, of the National Guard of Babispe, and those of four soldiers from Babispe and Bacerac; likewise that of Ensign Ignatio Franco, of the picket guard, and those of four soldiers of the auxiliary squadron of Sonora. The following persons were wounded: Major Ceron, belonging to the same body, Lieut. Jesus Galicia, of Bacerac, six privates of the aforesaid battalion, and two federal soldiers.

"'I shall order the aforesaid column of Colonel Forres to be re-enforced, in case the party of Indians who fled towards Casas Grandes take the direction of the locality covered by him.'

"I send this to you in compliance with the request which you made some time since.

"I have the honor to transcribe it to you for your information, and to state that this telegram was received to-day."

I. G. CARBO,
General.

No. 238.

Mr. Frelinghuysen to Señor Romero.

DEPARTMENT OF STATE,
Washington, June 6, 1882.

SIR: I have the honor to acknowledge the receipt of your note of the 12th ultimo, in relation to the reciprocal passage of troops across the border when in pursuit of hostile Indians, and the pleasure to inclose, for the information of the Mexican Government, a copy of a letter from the Secretary of War, of the 31st ultimo, wherein he states that the proposed terms or conditions upon which such passage may be made, are acceptable to the General of the Army of the United States and to himself.

Accept, &c.,

FRED'K T. FRELINGHUYSEN.

[Inclosure.]

Mr. Lincoln to Mr. Frelinghuysen.

WAR DEPARTMENT,
Washington City, May 31, 1882. (Received June 2.)

SIR: I have the honor to acknowledge the receipt of your letter of the 15th instant, transmitting a copy of a note from the minister of Mexico, at this capital, in relation to the reciprocal passage of troops across the border in pursuit of fugitive Indians, and a copy of a telegram from the United States minister at the City of Mexico, presenting the terms upon which such passage may be made.

In reply thereto, I beg to state that this correspondence was duly referred to the General of the Army, who in returning same expresses the opinion that "the terms proposed by the Mexican minister in his communication of May 12, 1882, are just and fair, and should be accepted pure and simple."

The views of the General of the Army are concurred in by this department, and should they receive the approval of the Department of State, the necessary instructions will be issued by the military authorities to carry the same into effect.

Very respectfully, &c.,

ROBERT T. LINCOLN,
Secretary of War.

No. 239.

Señor Romero to Mr. Frelinghuysen.

[Translation.]

LEGATION OF MEXICO IN THE UNITED STATES,
Washington, June 6, 1882. (Received June 7.)

Mr. SECRETARY: I have had the honor to receive your note of this date, whereby you acknowledge the receipt of mine of the 12th of May last, relative to the passage of United States and Mexican troops across the boundary line, in pursuit of hostile Indians, and wherein you were pleased to inclose, for the information of the Government of Mexico, a copy of a communication addressed to you by the Secretary of War, under date of the 31st of May last, in which that officer states that the terms proposed by Mexico for the consummation of such an arrangement are acceptable to the General of the Army of the United States and to the Secretary of War.

In reply, I have the honor to inform you that I this day send a copy and translation of your aforesaid note, and of the communication of the Secretary of War which accompanied it, to the secretary of foreign relations of the Mexican Republic, for his information.

I also transmit the substance of your aforesaid note by cable.

I avail myself, &c.,

M. ROMERO.

No. 240.

Señor Romero to Mr. Frelinghuysen.

[Translation.]

LEGATION OF MEXICO IN THE UNITED STATES,
Washington, June 12, 1882. (Received June 13.)

Mr. SECRETARY: I have the honor to inform you that, on the 3d ultimo, I sent my government a copy and translation of the note which

you were pleased to address to me on the same day, whereby you acknowledged the receipt of mine of the 17th of April previous, relative to the incursion of the Chiricahua Indians into the territory of Mexico, and stated that you had transmitted it to the Secretary of War, whose reply you would communicate to me as soon as you should have received it.

The secretary of foreign relations of the United States of Mexico informs me, under date of the 24th ultimo, that he has received your aforesaid note, and instructs me, as soon as I shall have received the reply of the Secretary of War, to which reference is therein made, to transmit it to him for his information.

As that reply has not yet been received at this legation, I will thank you, in case it has been received by your Department, and you think it is proper for it to be communicated to the Government of Mexico, to be pleased to cause it to be sent to me, that I may transmit it to the department of foreign relations of Mexico.

I avail, &c.,

M. ROMERO.

No. 241.

Mr. Frelinghuysen to Señor Romero.

DEPARTMENT OF STATE,
Washington, June 20, 1882.

SIR: I have had the honor to receive your note of the 12th instant, in which you refer to my note of the 3d ultimo, touching the incursions of the Chiricahua Indians into Mexican territory, and express a desire to receive the letter of the Secretary of War on the subject, which I then told you would be sent to you when received here. In reply I have pleasure in renewing my promise to communicate to you the foreshadowed reply of the Secretary of War so soon as I shall receive it.

Accept, &c.,

FRED'K T. FRELINGHUYSEN.

No. 242.

Señor Romero to Mr. Frelinghuysen.

[Translation.]

LEGATION OF MEXICO IN THE UNITED STATES,
Washington, June 22, 1882. (Received June 23.)

Mr. SECRETARY: I have the honor herewith to transmit to you a copy of the Official Journal of the United States of Mexico (Vol. VII, No. 133), bearing date of June 5, 1882, and containing an official dispatch sent by telegraph by General Fuero to the war department of the Mexican Government, dated Chihuahua, May 30, 1882, in which it is stated that the band under the orders of the Apache Chief Ju was defeated by a party of Mexican troops at an early hour on the 26th day of May, in San Diego's woods, the Indians losing thirty-six killed and ten prisoners, together with fifty animals (horses or mules) which the troops took from them. The remainder of the band dispersed in the Sierra Madre, but were closely pursued by the Mexican forces.

I also inclose an English translation of the aforesaid dispatch.

The Mexican forces have now been able almost entirely to destroy the Indians who rose in this country against the United States Government, and then invaded the territory of Mexico, thus becoming enemies of both nations.

I avail, &c.,

M. ROMERO.

[Inclosure.—Telegram.—Translation from the Official Journal of June 5, 1882.]

CITIZEN SECRETARY OF WAR: A fight was had with the band of Ju at daybreak on the 26th, in the San Diego woods, in which thirty-six Indians were killed and ten were taken prisoners; fifty animals were also captured. The rest of the band scattered over the Sierra Madre and is being already tenaciously pursued.

C. FUERO.

No. 243.

Señor Romero to Mr. Frelinghuysen.

[Translation.]

LEGATION OF MEXICO IN THE UNITED STATES,
Washington, June 23, 1882. (Received June 24.)

Mr. SECRETARY: I have the honor to inform you that I have received information from a reliable person, under date of Tombstone, Arizona Territory, June 17, 1882, to the effect that four cow-boys came to that place on the 10th instant from the Sonora frontier, having with them a hundred head of cattle which they left at a ranch situated in Saint Peter's Valley, about sixteen miles from Tombstone; that they remained at Tombstone five days, selling the cattle there to butchers who deal in animals clandestinely brought from Sonora; and that they then left the aforesaid ranch, going in the direction of Sonora.

Persons who saw the cattle think that they were from various Mexican ranches situated near the American frontier, in the districts of Magdalena and Arizpe.

The person who furnishes this information is of the opinion that it will be no easy matter to bring these cattle-thieves to justice, or even to secure evidence of the thefts, inasmuch as the authorities of Arizona Territory are intimidated by the thieves, some of them even being in collusion with the latter.

Thinking it proper that you should be informed of these facts, in order that the United States Government may take such measures as it may think proper for their prevention in future, I have decided to communicate them to you as I have received them.

I avail myself, &c.,

M. ROMERO.

No. 244.

Mr. Frelinghuysen to Señor Romero.

DEPARTMENT OF STATE,
Washington, June 30, 1882.

SIR: I have the honor to acknowledge the receipt of your note of the 23d instant, concerning a hundred head of cattle, thought to have been

stolen from Mexican territory, and alleged to have been disposed of by four cow-boys to certain dealers of Tombstone, Arizona Territory, upon the 10th of this month.

Observing that I have referred a copy of your note to the Secretary of the Interior for his consideration and action, I take, &c.

FRED'K T. FRELINGHUYSEN.

No. 245.

Señor Romero to Mr. Frelinghuysen.

[Translation.]

LEGATION OF MEXICO IN THE UNITED STATES,
Washington, July 3, 1882. (Received July 5.)

Mr. SECRETARY: As I informed you in a note which I addressed to you on the 6th ultimo, on that day I transmitted to my government a copy and translation of your note on the same day, as an inclosure to which you were pleased to send me a copy of a communication addressed to your Department by the Secretary of War on the 31st day of May, informing you that the basis proposed by Mexico for the reciprocal passage of troops across the frontier in pursuit of rebellious Indians was acceptable to the General of the Army of the United States and to the Secretary of War.

As I informed you in the interview which I had with you to-day at the Department of State, I have received a telegram from the Secretary of Foreign Relations of Mexico, dated June 30, in which he tells me that the Mexican government does not consider that your aforesaid note implies the acceptance of the conditions proposed by Mexico in May last to the minister of the United States in that city.

As, in my opinion, the Government of the United States accepted the conditions proposed by Mexico from the moment that you addressed to me your aforesaid note of June 6, 1882, I will thank you to be pleased to rectify this point if you have no objections (in order to settle this matter,) by informing me whether the note in question comprises the acceptances of said proposals, or simply expresses the opinion that they are acceptable.

I avail, &c.,

M. ROMERO.

No. 246.

Mr. Frelinghuysen to Señor Romero.

DEPARTMENT OF STATE,
Washington, July 6, 1882.

SIR: I have had the honor to receive your note of the 3d instant, in which, referring to the notes exchanged between us on the 6th ultimo, touching an understanding for the reciprocal pursuit of rebellious and marauding Indians across the frontier, you acquaint me with the doubt which subsists in the mind of the Mexican Secretary of Foreign Relations as to whether my note of June 6, ultimo, comprised the acceptance of the proposition of Mexico for the reciprocal passage of troops across

the frontier, or simply expressed the opinion that the bases proposed are acceptable.

In reply I have the pleasure to inform you that the opinion you express, that "the Government of the United States accepted the conditions proposed by Mexico from the moment that [I] addressed to [you my] aforesaid note of June 6, 1882," is correct, and that it was my intention in that note to accept the bases of the Mexican proposition in order that the arrangement for the reciprocal crossing of the frontier by the respective troops of the United States and Mexico in pursuit of marauding and hostile Indians might be thenceforth effective.

Accept, &c.,

FRED'K T. FRELINGHUYSEN.

No. 247.

Mr. Frelinghuysen to Señor Romero.

DEPARTMENT OF STATE,
Washington, July 10, 1882.

SIR: I have the honor to lay before you a copy of a letter with its accompanying papers addressed to me by his excellency Governor F. A. Tritle, of Arizona Territory, in relation to the arrest and expulsion from Mexican territory of Capt. William J. Ross, a deputy sheriff of Pima County, and his sworn posse, by order of General Bernardo Reyes, of Sonora, on the 5th ultimo.

It appears from these papers that, in consequence of the perpetration of certain murders in Arizona by hostile Apaches, their pursuit was instituted by a body of men acting as sheriff's aids under Captain Ross; that the fugitives were followed to the Mexican line, where they were surrounded by Mexican forces; that, on the invitation of their commander, Captain Ross and his posse aided the Mexican forces; that Captain Ross, having due warrants for the arrest of the fugitives, sent forward a letter, by a courier, to General Terrazas, commanding in Chihuahua, whither the hostiles fled, asking for their delivery to him; that the courier was arrested by General Reyes, whose command was in Sonora, and the letter of Captain Ross to General Terrazas thus failed to reach its destination; and that soon afterwards Ross himself and all his posse were arrested by General Reyes, their arms taken from them, and they themselves ordered to return to Arizona, which they did, unarmed, after a trying march of some hundreds of miles.

In view of these circumstances, Governor Tritle makes the very reasonable request that the arms taken from Ross and his posse (and for which the governor holds General Bernardo Reyes' receipt) be returned to the authorities of the Territory of Arizona, whose property they are. It has seemed to me that I might more promptly, and with less of formality, compass the desired relief through your intervention with the military authorities of Sonora than by formal representations through the United States legation at the city of Mexico. And, with this desire to dispose of the matter frankly and amicably, I refrain from any criticism of General Reyes' course in disarming, and exposing to the dangers of a tedious march through wild country, a body of men on a mission of justice and good will.

Be pleased, &c.,

FRED'K T. FRELINGHUYSEN.

[Inclosure.]

Governor Tritle to Mr. Frelinghuysen.

WASHINGTON, *June* 30, 1882.

SIR: I have the honor most respectfully to submit the following, and inclosed documents, connected with and relating to the taking of certain guns and ammunition from William J. Ross, a deputy sheriff of Pima County, and captain of militia of Arizona Territory, by General Bernardo Reyes, of Sonora, Mexico, on June 5 1882, as is shown by a copy of his receipt for said arms, remitted herewith.

Said William J. Ross entered into the State of Sonora for the purpose of having the arrest made of *hostile Apache Indians*, who had fled there, after murdering certain citizens of Arizona, and for whose arrest he had proper warrants, issued by the authorities of Pima County, Arizona, within the limits of which the offense had been committed. Said Ross had sent a courier with a letter to General Terrazas, of Chihuahua, in which State he had information the Indians for whose arrest he held the warrants were supposed to be, desiring to have them delivered to him, which courier was arrested by General Reyes, and letter taken, by which the request of said Ross failed to reach said General Terrazas. That afterwards he was arrested by said General Reyes, and his arms, &c., taken from him—a receipt therefor given, a copy of which is hereby submitted—and ordered to at once return to Arizona, and which order he at once obeyed, as will be shown by the sworn statement of said Ross, herewith submitted as Exhibit F.

I would most respectfully ask that your Department request that the arms so taken be returned by the Mexican government to me as governor of Arizona, or to William C. Davis, chairman of the board of county supervisors of Pimo County, Tucson, Ariz., by whose order they were paid for, and furnished to said deputy Sheriff.

Respectfully submitted.

F. A. TRITLE,
Governor of Arizona.

[Inclosure 1 in Mr. Tritle's letter.]

Mr. Carr to Mr. Tritle.

TUCSON, ARIZONA TERRITORY, *June* 23, 1882.

DEAR GOVERNOR: In reply to your dispatch of 21st instant to Col. Jas. H. Toole, asking for certain papers relating to loss of arms, &c., by our troop of volunteers in the Mexican territory, I have the honor to herewith forward you, at request of committee of citizens, the enclosed documents, as follows:

Exhibit A.—Deputy Sheriff Ross's appointment by Sheriff Paul.

Exhibit B.—Copy of warrant issued for arrest of Indians.

Exhibit C.—Copy of special meetings of board supervisors.

Exhibit D.—Copy of appointment of Captain Ross as captain of militia.

Exhibit E.—Copy of receipt of Gen. Bernardo Reyes for guns taken from Captain Ross.

Exhibit F.—Deposition and statement of Capt. W. J. Ross, and certificate of chairman of citizens' executive committee, relating to Ross having served under his respective titles and authorities.

I hold the originals of Exhibits D and E, which can be forwarded to you if so desired. It was thought best to keep the originals here, unless really needed by you, to assist you and the Department in making the necessary requisition on the Mexican Government.

In this connection I might state these arms were taken from Captain Ross by Gen. Bernardo Reyes (commander of the troops of Sonora) in the State of Chihuahua. Captain Ross had taken the precaution to notify General Terrazas, commander of the Mexican troops in the State of Chihuahua, of his presence in that State, and the object for which he was there. His courier was captured by General Reyes, and thereby the desire and object of Captain Ross was thwarted.

Herewith I inclose you press copy of my telegram to you notifying you that these documents would be mailed to you to-night.

I am, &c.,

JNO. S. CARR,
Chairman of Citizens' Executive Committee.

[Inclosure 2.—Copy of telegram.]

TUCSON, *June* 23, 1882.

GOV. F. A. TRITLE, *Governor of Arizona, Washington, D. C.:*

Documents asked for in your dispatch of 21st to Colonel Toole, go to your address by to-night's mail.

Please await their arrival.

JNO. S. CARR,
Chairman Executive Committee.

[Inclosure 3.—Exhibit A.]

Know all men by these presents that I, the undersigned, sheriff of Pima County, Arizona Territory, do hereby appoint W. J. Ross a deputy sheriff in and for said county.

Witness my hand this 29th day of April, A. D. 1882.

R. H. PAUL,
Sheriff.

TERRITORY OF ARIZONA,
County of Pima, ss:

I, W. J. Ross, do hereby solemnly swear to support the Constitution of the United States and the laws of the Territory of Arizona and to true allegiance bear to the same, and to defend them against all enemies whatsoever, and to discharge the duties of the office of deputy sheriff of Pima County to the best of my knowledge and ability. So help me God.

W. J. ROSS.

Subscribed and sworn to before me this 2d day of May, 1882.

[SEAL.] ANTHONY CAENEN,
Notary Public, Pima County, A. T.

TERRITORY OF ARIZONA,
County of Pima, ss:

I, Charles R. Drake, county recorder in and for the county of Pima, do hereby certify that the above and foregoing is a full, true, and correct copy of the appointment of W. J. Ross as deputy sheriff for the county of Pima, as appears on file now in my office.

In witness whereof I have hereunto set my hand and affixed my official seal, at my office in Tucson, this 22d day of June, A. D. 1882.

[SEAL.] CHAS. R. DRAKE,
County Recorder.

[Inclosure 4.—Exhibit B.]

TERRITORY OF ARIZONA,
County of Pima, ss:

To the sheriff, constable, marshal, or policeman in this Territory:

Complaint upon oath having been this day made before me, a justice of the peace in and for the above county, by Hugh Farley, that the offense of murder has been committed, and accusing Ju, Nashi, Geronimo, and others, whose full and true names are unknown, thereof:

You are therefore commanded by the Territory of Arizona forthwith to arrest the above-named Ju, Nashi, Geronimo, and others, whose full and true names are unknown, and bring them before me forthwith at my office in the town of Tucson, or, in case of my absence or inability to act, before the nearest and most accessible magistrate within this county.

Given under my hand this 27th day of April, A. D. 1882.

WILLIAM J. OSBORN,
Justice of the Peace in and for said county.

TERRITORY OF ARIZONA,
County of Pima, ss:

I, William J. Osborn, a justice of the peace in and for the county of Pima, Territory of Arizona, do hereby certify the foregoing to be a full, true, and correct copy of the original warrant issued by me upon a complaint as provided by law, and that I delivered said warrant to R. H. Paul, sheriff of the county of Pima, for service and execution, on the 27th day of April, A. D. 1882.

WILLIAM J. OSBORN,
Justice of the Peace, Pima County, Arizona.

[Inclosure 5.—Exhibit C.]

SPECIAL MEETING.

OFFICE OF THE BOARD OF SUPERVISORS,
Pima County, Arizona Territory, Tucson, May 1, 1882.

Board met pursuant to a call from the chairman, after due notice as required by statute, at 2 o'clock p. m., for the purpose of taking action in the matter of a certificate from the sheriff of Pima County, Mr. R. H. Paul, asking for assistance to enable him to execute a warrant of arrest upon certain Apache Indians, accused of murder in said Pima County, he having every reason to believe that armed resistance would be made to the execution of said warrant.

Present, W. C. Davis, chairman; B. M. Jacobs, member; H. Ward, deputy clerk. Absent, M. Fagan, member.

Minutes of last meeting read and approved.

After consideration and discussion of the above-named matter, the board, upon motion, adjourned until Wednesday, May 3, 1882, at 2 o'clock p. m., for the purpose of securing the attendance and advice of Mr. H. Farley, district attorney, touching the framing and passage of proper resolutions.

W. C. DAVIS,
Chairman.

Attest: H. WARD,
Deputy Clerk.

OFFICE OF THE BOARD OF SUPERVISORS,
Pima County, Arizona Territory, Tucson, May 3, 1882.

Board met, pursuant to adjournment, at 2 o'clock p. m.

Present, W. C. Davis, chairman; B. M. Jacobs, member; H. Ward, deputy clerk. Absent, M. Fagan, member.

Minutes of last meeting read and approved.

On the matter of the certificate from R. H. Paul, sheriff of Pima County, referred to in minutes of May 1, the board, after consultation with H. Farley, district attorney, upon motion, both members voting aye, passed the following resolution, to wit:

"*Resolved*, That said sheriff be and he is hereby recommended to appoint fifty special deputies for the purpose of executing said warrant."

W. C. DAVIS,
Chairman.

Attest: H. WARD,
Deputy Clerk.

TUCSON, ARIZONA TERRITORY, *June* 22, 1882.

I hereby certify that the above and foregoing is a full, true, and correct copy of the minutes of the board of supervisors of Pima County, Arizona Territory, of May 1, A. D. 1882, and of May 3, A. D. 1882, in as far as action of said board has reference to the certificate of R. H. Paul, sheriff of said county, touching the execution of a warrant of arrest against certain Apache Indians.

[SEAL.] H. WARD,
Deputy Clerk, Board of Supervisors, Pima County, Arizona Territory.

[Inclosure 6.—Exhibit D.]

The governor of the territory of Arizona, to all who shall see the presents greeting:

Know ye, that, reposing special trust and confidence in the patriotism, valor, fidelity and ability of William J. Ross, I, F. A. Tritle, the governor of the Territory of Arizona, as the commander in chief of all the military forces thereof, in the name of and by the authority of said Territory of Arizona, to rank as such in the First Regiment of the militia of said Territory from the date of this commission.

He is therefore carefully and diligently to discharge the duty of captain by doing and performing all manner of things thereunto belonging. And I do strictly charge and require all officers and soldiers under his command to be obedient to his orders as captain. And he is to observe and follow such orders and directions from time to time as he shall receive from me or the future governor, or other superior officers set over him, according to the rules, regulations and discipline prescribed for the militia of said Territory. This appointment to continue in force during the pleasure of the governor of said Territory.

Given under my hand at Prescott, Territory of Arizona, this 9th day of May, in the year of our Lord, one thousand eight hundred and eighty-two. By the governor:

F. A. TRITLE.

[SEAL.]

H. M. VAN ARMAN,
Secretary of the Territory.
CLARK CHURCHILL,
Adjutant-general.

TERRITORY OF ARIZONA,
County of Pima, ss:

I, William J. Ross, do solemnly swear that I will support the Constitution of the United States and the laws of this Territory; that I will true faith and allegiance bear to the same and defend them against all enemies whatsoever; and that I will faithfully and impartially discharge the duties of the office of captain of the Pima County Rangers according to the best of my abilities. So help me God.

WILLIAM J. ROSS.

Sworn to and subscribed before me this ninth day of May, 1882.

F. A. TRITLE,
Governor of Arizona.

TERRITORY OF ARIZONA,
County of Pima:

I, George A. Clum, clerk of the district court of the first judicial district of the Territory of Arizona, in and for the County of Pima, do hereby certify that the foregoing is a full, true, and correct copy of the commission of William J. Ross, as captain in the service of the Territory of Arizona in the First Regiment of the militia of said Territory, the original commission as exhibited to me then and still being in the possession of said Ross, together with the oath indorsed on the back thereof.

In witness whereof I have hereunto set my hand and affixed my official seal, this 23d day of June, A. D. 1882.

[SEAL.]

GEORGE A. CLUM, *Clerk.*
By C. W. CLUM, *Deputy.*

[Inclosure 7.—Exhibit E.—Translation.]

I have taken from Capt. William J. Ross, commander of the company of Tucson Volunteers, forty-eight rifles and five carbines, Springfield pattern, for having come with his company into Mexican territory, from which I have caused him to return to the United States.

Casa de Janos, June 5, 1882.

BERNARDO REYES, *General.*

(Seal of commander in chief. Federal guard in the State of Sonora.)

TERRITORY OF ARIZONA,
County of Pima, ss:

I, W. B. Horton, a notary public in and for Pima County, do hereby certify that the foregoing in the Spanish language is a full, true, and correct copy of the original as exhibited to me by Capt. William J. Ross, and that I am the translator from Spanish into English thereof, and that the said translation is correct according to the best of my ability.

In witness whereof I have hereto set my hand and affixed my notarial seal this 23d day of June, A. D. 1882.

[SEAL.]

W. B. HORTON,
Notary Public.

[Inclosure 8.—Exhibit F.]

TERRITORY OF ARIZONA,
County of Pima, ss:

W. J. Ross, being first duly sworn, deposes and says: That he is a citizen of the United States and of the age of thirty-seven years; that he has served as field officer of volunteers during the late civil war for the period of five years, and for eight years thereafter was lieutenant in the regular army of the United States; that on the 29th day of April, A. D. 1882, he was duly appointed deputy sheriff of Pima County, Arizona Territory, as more fully appears by the certified copy of said appointment attached hereto and made a part hereof, and marked Exhibit A; that as such deputy

sheriff a warrant of arrest was placed in his hands by his principal, the sheriff of Pima County, for the arrest of certain Indians for the crime of murder, as more fully appears by the certified copy of said warrant attached hereto and made a part hereof, and marked Exhibit B. That it appearing to said sheriff that said Indians would likely resist arrest, he was instructed by said sheriff, in accordance with the instructions given to said sheriff by the board of supervisors of said Pima County, to swear in as a posse comitatus about fifty men, the number deemed sufficient to overcome said resistance. A certified copy of said resolution is hereunto attached, and marked Exhibit C. That in accordance with said instructions he swore in fifty men as special deputy sheriffs; that thereafter and on the 9th day of May, A. D. 1882, he was duly commissioned as captain of militia of the Territory of Arizona, and a commission to that effect duly issued to him, a certified copy of which is hereunto attached and marked Exhibit D, and that said men, to the number of fifty, were duly enrolled as a company of the militia of the Territory of Arizona. That said company were mounted and furnished with arms by the said county of Pima, there being no money in the treasury of the Territory for such purpose; that thereafter and in execution of said warrant, and on or about the 10th day of May, A. D. 1882, he took up the trail of the band of Indians with whom, as said deponent was informed and believed, said Indians against whom said warrant was issued, were: That he pursued said trail nearly due east until about the 28th of said May, when he met a detachment of twelve men of the Sixth United States Cavalry, who informed him that the Mexican troops had said Indians surrounded at a place near Casas Grandes in the State of Chihuahua, Mexico, and that their commander had requested said troops to cut their line in the rear, as his, the said commander's, line was thin in places, and he did not know whether or not he could hold them. For the purpose of assisting said Mexican troops in holding and capturing said Indians, this deponent pushed in the direction of said troops as rapidly as possible, and on the second day of June met and joined a company of sixty men of the National Guard of Mexico, under command of Captain Ramirez; and from the second of said June until the fifth thereof he operated with said Captain Ramirez, in guarding the rear line of the Mexican troops to prevent said Indians from breaking back; that on the fourth of said June he sent a courier to Colonel Terrazas, the commanding officer of the Mexican forces in Chihuahua with a letter offering his services and that of his men, in any capacity he might see fit to employ him and them; that as he afterwards learned said courier was taken prisoner by General Reyes, as were all the men sent to Janos to purchase supplies; General Reyes opened said letter and learned from its contents who said deponent was, and moved his force consisting of one regiment of infantry and a squadron of cavalry on said deponent and his men, and demanded of this deponent that he and his men surrender up their arms and return to the United States; that in accordance with said demand this deponent and his men surrendered up their arms and returned to the United States, marching through nearly three hundred miles of dangerous Indian country without arms; that at request of this deponent, said General Reyes gave this deponent a receipt for the arms so taken, and embodying therein the order commanding him to return to the United States. A certified copy of which together with a translation thereof is hereunto annexed and made a part hereof marked Exhibit E. And deponent further avers that the said taking of said arms was at the Casa de Janos in the State of Chihuahua, Mexico, and that said State of Chihuahua was not under the command of said General Reyes, but was under the command of said Colonel Terrazas and that the said disarming of this deponent and his men was without the knowledge or consent of said commanding officer in said State of Chihuahua, namely, said Colonel Terrazas. And further deponent sayeth not.

WILLIAM J. ROSS,
Deputy Sheriff Pima County and Captain Arizona Militia.

Subscribed and sworn to before me this 23d day of June, A. D. 1882.
[SEAL.]
GEO. A. CLUM,
Clerk District Court, First District, Arizona.
By C. W. CLUM,
Deputy.

I hereby certify that W. J. Ross acted in the capacity of deputy sheriff of Pima County, Arizona, as well as captain of Arizona militia, in the late campaign against the hostile Apaches—then on the war-path.

JNO. S. CARR,
Chairman Citizens' Executive Committee.

Subscribed and sworn to before me this 23d day of June, 1882.
[SEAL.]
GEO. A. CLUM,
Clerk District Court, First District, Arizona Territory.
By C. W. CLUM,
Deputy.

[Inclosure 9.]

WASHINGTON, *June* 30, 1882.

I hereby certify that I issued and delivered to Capt. William J. Ross the following order, May 9, 1882:

TUCSON, ARIZONA, *May* 9, 1882.

Capt. WILLIAM J. ROSS:

You will proceed with your company of the Arizona Militia, known as the Pima County Rangers, to the southeastern border of Arizona, to prevent the incursions and encroachments of hostile Apache Indians upon the citizens of the Territory.

Yours, &c.,

F. A. TRITLE,
Governor and Commander-in-Chief of the Militia.

No. 248.

Señor Romero to Mr. Frelinghuysen.

[Translation.]

LEGATION OF MEXICO IN THE UNITED STATES,
Washington, July 10, 1882. (Received July 12.)

Mr. SECRETARY: I have had the honor to receive your note of this date, accompanied by a copy of a communication with its inclosures, which was addressed to you by His Excellency Governor F. A. Tritle, of Arizona Territory, relative to the arrest and expulsion from the Mexican territory of Capt. William J. Ross, a deputy sheriff of Pima county, and a posse comitatus under his command, by order of Gen. Bernardo Reyes, of Sonora, on the 5th day of June last.

You were pleased to furnish me with a statement of the circumstances of this case, which shows, in substance, that Captain Ross was appointed a deputy sheriff of Pima County, and charged with the execution of a warrant for the arrest of certain hostile Indians; that he was soon afterwards appointed captain of the militia of Arizona Territory, and that, with a force of about fifty men, who had been armed as a posse comitatus, he entered the territory of Mexico, whence he addressed a communication to General Terrazas, asking his permission to arrest the Indians; that this communication was received and opened by General Reyes, who summoned him to lay down his arms and leave the territory of Mexico, which Captain Ross and his men were obliged to do.

You are pleased to state in conclusion that Governor Tritle makes the very reasonable request that the arms taken from Captain Ross and his companions may be restored to the authorities of Arizona Territory, and that you think that this may be obtained more speedily and with fewer formalities through my mediation with the military authorities of Sonora than through a formal representation made by the United States legation in the city of Mexico; and that, desiring to terminate this matter in a frank and friendly manner, you abstain from criticizing the course pursued by General Reyes in disarming a party whose mission was one of justice and good-will, and in exposing them to the dangers of a long march through the wilderness.

In reply I have the honor to inform you that as soon as I received information of the affair mentioned by you in your aforesaid note, both through the reports concerning it which were published in the newspapers of this country and through what you were pleased to communicate to me in the interview which I had with you at the Department of State on the 6th instant, I anticipated your wishes by telegraphing the facts of the case to the Government of Mexico, requesting it to issue orders to General Reyes for the immediate restoration of the aforesaid arms to his excellency the governor of Arizona Territory.

I have this day received a telegram from the secretary of foreign relations of Mexico, a copy and translation of which I inclose, bearing date of July 10, in which that officer informs me that, although the war department has no official knowledge of the disarming of the American posse by General Reyes, he has, nevertheless, ordered that, if such posse was disarmed, the arms be restored to the United States forces that may be nearest to the frontier.

This very just request of the United States Government that the aforesaid arms be restored, which request you were pleased to convey to me in your communication of this date, has thus been complied with.

Before concluding this note it seems proper for me to remark that, duly appreciating the frank and friendly spirit expressed by you in your aforesaid note, I think that I shall duly reciprocate it by informing you that, according to the Constitution of the United States of Mexico, it is not allowable for any foreign armed force to enter the national territory without permission from the President of the Republic, granted with the approval of the Senate. Captain Ross not having obtained such permission, it is evident that he had illegally entered the territory of Mexico, and that it was the duty of General Reyes to act as he did.

That officer probably had not sufficient force at his disposal (being engaged in active operations against the hostile Indians) to furnish an escort to Captain Ross and his men as far as the United States frontier, in order to protect them from any attack by the Indians, as it is probable he would have done had he had a sufficient force for that purpose.

The danger to which those citizens of the United States were thus exposed is certainly very much to be regretted, but I do not think that General Reyes, and still less the Mexican Government, can be held responsible therefor.

Neither General Reyes, the commanding officer of the regular force on the frontier, nor General Luis Terrazas, governor of the State of Chihuahua, nor Colonel Joaquin Terrazas (brother of General Luis Terrazas), commander of the local forces sent in pursuit of the Indians, has power to grant permission to a foreign force to enter the territory of Mexico, even if such permission is asked of them, for, as I have already remarked, it can be granted by the President only, with the approval of the Senate.

This cannot, moreover, be considered as an extradition case, because the stipulations of the treaty in force between the two nations, which was signed at the city of Mexico, December 11, 1861, were not therein observed, since, according to that treaty, the arrest of offenders is to be made by the authorities of the country in which it is effected.

I entertain the hope that no case of this kind will occur in future, since both governments have agreed, observing the formalities prescribed by law in this case, that their forces may reciprocally cross to the territory of their respective nations for the purpose of pursuing hostile Indians.

I avail, &c.,

M. ROMERO.

[Inclosure.—Telegram.—Translation.]

Mr. Mariscal to Mr. Romero.

MEXICO, *July* 10, 1882.

Your telegram received to-day. Minister of war has no official knowledge of the disarming, but he orders, if such disarming took place, the arms shall be returned to the nearest United States force.

MARISCAL.

No. 249.

Mr. Frelinghuysen to Señor Romero.

DEPARTMENT of STATE,
Washington, July 12, 1882.

SIR: Adverting to my note to you of the 30th ultimo, in relation to the defeat of the Apache chief, Ju, and his Indian band, by the Mexican forces under General Fuero, I have now the honor to acquaint you with the purport of a letter from the Secretary of War, of the 8th instant, upon that subject. Mr. Secretary Lincoln states that your note of the 22d ultimo, with its accompaniments, was referred to the General of the Army of the United States, who referred it to his department with the following indorsement thereon:

In my judgment the Mexican Government and the Mexican troops are entitled to our thanks for their gallantry and successful actions against our common enemies, the Apaches.

Mr. Lincoln then concluded as follows:

Concurring in the views of the General of the Army, that the Mexican Government and its troops are entitled to the thanks of this department, I have the honor to request that the same may be appropriately tendered.

It has afforded me very great pleasure, in carrying out the wishes of the Secretary of War, to thus make known to you the appreciation, which is here felt, of the efforts of the Mexican Government and its troops for the suppression of a common enemy.

Accept, &c.,

FRED'K T. FRELINGHUYSEN.

No. 250.

Mr. Frelinghuysen to Señor Romero.

DEPARTMENT OF STATE,
Washington, July 20, 1882.

SIR: I have the honor to acknowledge the receipt of your note of the 10th instant, announcing the telegraphic instruction of the Mexican Government for the restoration of the arms taken from Capt. William J. Ross, a deputy sheriff of Pima County, Arizona Territory, and his sworn posse, who were recently expelled from Mexican territory by order of General Bernardo Reyes, of Sonora.

Sincerely thanking you for your prompt and courteous attention to my request in this matter, I again offer you, &c.,

FRED'K T. FRELINGHUYSEN.

No. 251.

Mr. Frelinghuysen to Señor Romero.

DEPARTMENT OF STATE,
Washington, July 20, 1882.

SIR: Referring to the notes recently exchanged between us, touching the depredations of Ju's band of hostile Indians, which was destroyed

by the Mexican troops at Bosque de Santiago, I have the honor to transmit herewith, as of probable interest to you and to your government, a copy of a memorandum furnished to me by the Secretary of War, concerning the movements of the American troops and the co-operation of the Mexican forces prior to the overthrow of that band.

Accept, &c.,

FRED'K T. FRELINGHUYSEN.

Mr. Lincoln to Mr. Frelinghuysen.

WAR DEPARTMENT,
Washington City, July 10, 1882. (Received July 12.)

SIR: Referring to previous correspondence respecting the incursions of the Chiricahua Indians into Mexican territory, particularly to your letters dated, respectively, May 3, and June 24, 1882, each inclosing a copy of a note upon the subject from the minister of Mexico here, I have the honor to inclose herewith a "memorandum," compiled from official telegrams and reports, showing the action taken by the military authorities in regard to the subject in question; the same having been submitted to this department by the General of the Army.

Very respectfully, &c.,

ROBERT T. LINCOLN,
Secretary of War.

Memorandum of the recent escape of Loco's band of Chiricahua Indians from the San Carlos Reservation, Arizona, and their pursuit into Mexico.

On the 17th of April last, Ju (the chief of the band of Chiricahuas which broke out in September, 1881) returned secretly from Mexico with some 60 of his band to the San Carlos Reservation, and compelled the remainder of the Chiricahuas under Loco, consisting of about 40 men and 300 women and children, to leave the reservation.

They left on the night of April 18, 1882, killing the Indian chief of police, Sterling, and the police sergeant.

They proceeded towards Fort Thomas, killing 10 men, women, and children on Eagle Creek, and the murder of other citizens in the same valley was reported.

Lieutenant-Colonel Schofield, Sixth Cavalry, with two troops of his regiment from Fort Thomas, pursued the band, and part of the command under Lieutenant Sands overtook the fugitives and pursued them for 3 miles, but, getting out of ammunition, returned.

On the 20th April, Captain Gordon, Sixth Cavalry, with 119 men (including an Indian scout company) left Fort Grant to intercept the band should they go out by Eagle Creek or Clifton.

The commanding officer District of New Mexico (Colonel Mackenzie) having been advised of the trouble, Lieutenant-Colonel Forsyth with four troops of the Fourth Cavalry, at Separ, N. Mex., were on the alert to co-operate.

General McDowell ordered Harris' troop of the First Cavalry to report to General Willcox, and immediate steps were taken to use all the troops in the Department of Arizona available.

On the 25th April, the General of the Army, then in San Francisco, telegraphed suggesting that a regiment of infantry from Texas might be ordered to report to Colonel Mackenzie to patrol the line of the Southern Pacific Railroad so as to leave the troops in Arizona and New Mexico free to take the field.

The General also instructed General McDowell that Loco's band should be attacked wherever found, without regard to relative numbers.

Alarming reports were received of the loss of life, &c., from the depredation of the Chiricahuas, but many of the reports proved to be considerably exaggerated.

On the 24th April, Lieutenant-Colonel Forsyth with his command found the hostiles in an impregnable position in Stein's Peak Range, New Mexico, where he attacked and fought them, with a loss of five men killed and five men wounded, killing two Indians and wounding a number.

On the 26th April, General McDowell repeated a dispatch from General Willcox stating that Captain Overton, Sixth Cavalry, reported the Indians had killed many people along the Upper Gila, and that he was pushing forward on trail of main body towards Doubtful Cañon, in Stein's Peak Range.

On the 26th, General Sheridan reported that Colonel Forsyth had a force of about 500 men, Fourth Cavalry, and scouts, with him, and that he and Captain Tupper with

two troops Sixth Cavalry were close on trail of the Indians. General Sheridan said he could send Third Cavalry at any moment.

April 28th, General Willcox repeated by telegraph that the actual outbreak could be handled with the force in the department, but that as there were indications of fresh outbreaks reported, an additional regiment of cavalry and one of infantry should be sent. He also on the same day gave the strength of the troops in the Department of Arizona as 613 cavalry and 487 infantry.

On the 28th April, Captain Tupper with troops G and M, Sixth Cavalry, struck the Indians about 35 miles east of Cloverdale and had a desperate fight with them, killing 12 or 15 Indians, including Loco's son, and capturing 70 head of stock. The fight lasted from daybreak till noon. Captain Tupper lost one man killed and two wounded.

Colonel Forsyth and Captain Tupper united, then continued the pursuit of the Indians towards Mexico.

May 2d, General McDowell telegraphed that the governor of Arizona had called upon General Willcox for protection for the settlements, and that he therefore thought that General Willcox would need the additional troops asked for.

The First Infantry and Third Cavalry were thereupon definitely ordered to Arizona (General Orders of April 29 and May 1, from Division of Missouri), and the Seventh Infantry in Department of Dakota was ordered to be held in readiness.

May 3, 1882, General Sheridan telegraphed that 13 Indians were killed in Captain Tupper's fight; that the Indians had crossed into Mexico, and that Colonel Garcia with a column of Mexican troops had attacked the Indians, killing 78 and capturing 33. Colonel Forsyth returned to Separ, N. Mex., from the pursuit of the Indians on the 4th of May, having kept up the pursuit of Loco's band until he received reliable intelligence of the practical annihilation by the Mexican troops under Garcia.

Colonel Forsyth reported the number of Indians killed from April 25 to 29 as 98 (including the 78 killed by the Mexicans).

June 3, General Sheridan telegraphed that a dispatch from General Fuero (commanding the Mexican forces in Chihuahua) to General Pope, informed him that Ju's band of Apaches were defeated by the Mexican forces at Bosque de Santiago May 25, with loss of 37 Indians killed and 10 captured, and this, with the losses of Loco's band in previous fights, practically finishes up the renegades from San Carlos.

June 5, General McDowell telegraphed that it was reported that various small parties of Indians were in the Whitestone, Dragoon, Huachuca, and Chiricahua Mountains, and that troops from Forts Huachuca, Bowie, and Camp Price have been hunting them, while the San Pedro Valley and crossing of the Gila towards the San Carlos Reservation were guarded by troops from Forts Grant and Thomas.

No further disturbances at the San Carlos Reservation have been reported.

Upon the arrival of the First Infantry and Third Cavalry, they were distributed to the most exposed posts in Arizona.

On the 2d May (in response to a House resolution) the aggregate number of troops available in the Department of Arizona, after the arrival of the First Infantry and Third Cavalry, was stated to be 2,377 (approximate).

GEO. D. RUGGLES,
Acting Adjutant-General.

ADJUTANT-GENERAL'S OFFICE, *July* 5, 1882.

No. 252.

Señor Romero to Mr. Frelinghuysen.

[Translation.]

LEGATION OF MEXICO IN THE UNITED STATES,
Washington, July 21, 1882. (Received July 21.)

MR. SECRETARY: I have this day had the honor to receive your note bearing date of yesterday, in which, referring to the communications recently exchanged between us relative to the depredations of the band of hostile Indians under the leadership of Chief Ju, which was destroyed by the Mexican forces in the woods of San Diego, you were pleased to inclose to me, thinking that it might be of interest to me and to my government, a copy of a memorandum presented to the Secretary of War in respect to the movements of the North American forces

and to the co-operation of the Mexican troops before the destruction of the said band.

In reply I have the honor to inform you that I have read the memorandum inclosed in your aforesaid note with great interest; that I have already sent a copy and a translation of it to the Government of the United States of Mexico; and that I thank you most warmly for your attention in sending me a copy of said memorandum.

I avail, &c.,

M. ROMERO.

No. 253.

Señor Romero to Mr. Frelinghuysen.

[Translation.]

LEGATION OF MEXICO IN THE UNITED STATES,
New York, August 14, 1882. (Received August 16.)

Mr. SECRETARY: I have the honor to inform you that on the 12th instant, in this city, I signed, in my capacity as the representative of Mexico, together with the representatives of Guatemala, viz, General J. Rufino Barrios, president of that republic, Hon. Manuel Herrera, jr., minister of Guatemala in Mexico, and Hon. Fernando Cruz, formerly minister of foreign relations of Guatemala, a convention containing the stipulations which are to serve as the basis of the final treaty for the settlement of the boundary question between the two countries, which is to be signed at the city of Mexico within six months from that date.

The boundary question between Mexico and Guatemala has thus been amicably settled.

In accordance with this basis it may happen that both the contracting parties will have recourse to the President of the United States, requesting him to act as arbitrator on those points with respect to which they may be unable to agree.

I avail, &c.,

M. ROMERO.

No. 254.

Mr. Davis to Señor Romero.

DEPARTMENT OF STATE,
Washington, August 23, 1882.

SIR: I have the honor to acknowledge the receipt of your note of the 14th instant, by which you inform me that on the 12th instant, in New York, a convention was signed by yourself and the official representative of Guatemala, which contains the stipulations whereon to base a final treaty for the settlement of the boundary question between Mexico and Guatemala, to be signed at the city of Mexico within six months from that date.

It is a matter of congratulation to the government and people of the United States that a divergence between two neighboring countries has by these amicable means been put in the way of a just settlement, honorable alike to both.

In respect to your further statement that under the terms of adjustment it may happen that both the contracting parties will have recourse to the President of the United States requesting him to act as arbitrator on those points with respect to which they may be unable to agree, I may observe that on the 21st of July last Señor Montufar, then the envoy extraordinary and minister plenipotentiary of Guatemala at this capital, addressed this Department, inquiring whether, in the event of an agreement between his government and that of Mexico looking to the tender of the position of arbitrator between the two countries to the President, the trust would be accepted; and that on the 24th of July Mr. Frelinghuysen replied to Señor Montufar that "if an agreement be reached between Guatemala and Mexico, tendering to the President the post of arbitrator for the determination of the boundary line, on bases of submission to be specified in such agreement, he will have great pleasure in accepting the high trust proposed."

Expressing personally the pleasure it has afforded me to learn from you that the boundary question between Mexico and Guatemala has been thus amicably settled,

I avail, &c.,

JOHN DAVIS,
Acting Secretary.

No. 255.

Señor Romero to Mr. Frelinghuysen.

[Translation.]

LEGATION OF MEXICO IN THE UNITED STATES,
Washington, September 5, 1882. (Received September 7.)

Mr. SECRETARY: I have the honor to inform you that, having duly transmitted to my government the note of your Department of the 27th of April last, relative to the propriety of concerted action on the part of the military authorities of Mexico and those of the United States on the frontier, in the pursuit of Indians hostile to both countries, I have received a reply from the Government of Mexico, in which it informs me that the war department has given orders to the military commanders on the frontier to act in concert with the commanders of the United States forces in pursuit of the savages.

I herewith inclose a copy of a communication which I have received on this subject from the department of foreign relations of Mexico.

I avail, &c.,

M. ROMERO.

[Inclosure.—Translation.]

DEPARTMENT OF STATE AND OF FOREIGN RELATIONS,
Mexico, July 28, 1882.

The secretary of war has addressed to me, under date of the 19th instant, the communication which I insert below:

"I have read your note of the 26th of May last, in which you were pleased to transcribe that which had been addressed to you on the 27th of April by our minister in the United States, relative to the appearance near Janos of a party of savages, and to the recommendation made in connection therewith as to the desirability of mutual co-operation on the part of the American and Mexican forces on the frontier in pursuing the Apaches, for the obtainment of favorable results in the campaign; and in reply, I have the honor to inform you, by order of the President of the republic, that although our troops have repeatedly routed the savages, always succeeding in driving

them from our frontiers, as your department may see by the dispatches heretofore transmitted to it, the military commanders in that zone are under instructions, in operating against the Indians, when this is necessary, to act in concert with the commanders of the American forces; and that, as I informed you in a separate communication, I this day transcribe to Generals G. Treviño Carlos Fuero, José G. Carbo, and Bernardo Reyes, the note from your department of the 10th instant relative to the treaty which permits the troops of both nations to cross their respective boundary lines in pursuit of Indians."

I transcribe it to you for your information, renewing to you, &c.

MARISCAL.

No. 256.

Señor Romero to Mr. Frelinghuysen.

[Translation.]

LEGATION OF MEXICO IN THE UNITED STATES,
Washington, September 27, 1882. (Received September 28.)

Mr. SECRETARY: I have the honor to inform you that I have received a telegram from the secretary of foreign relations of the United States of Mexico, informing me that the final boundary treaty between Mexico and Guatemala, from the Atlantic to the Pacific, has this day been signed at the city of Mexico, in accordance with the preliminaries which were signed at New York by me, as the representative of Mexico, and by General Barrios and others, as the representatives of Guatemala, on the 12th of August last, to which I referred in the note which I had the honor to address to you under date of August 14.

In apprising you of the amicable and satisfactory termination of a grave question which had been pending for many years between two American republics, and which might have been attended with unfortunate consequences to both of them, I think it proper for me to send you, for your information, a copy of the preliminaries signed at New York on the 12th of August last.

I avail myself, &c.,

M. ROMERO.

[Inclosure.]

On the part of the United States of Mexico, Mr. Matias Romero, envoy extraordinary and minister plenipotentiary of the United States of Mexico at Washington, being duly authorized by his government to treat with the representatives of Guatemala; and on the part of the Republic of Guatemala, General J. Rufino Barrios, constitutional President of the Republic of Guatemala, being fully authorized by the Guatemalan National Assembly, by a decree bearing date of April twenty-eight, one thousand eight hundred and eighty-two, to settle the boundary question pending with Mexico; Mr. Manuel Herrera, jr., envoy extraordinary and minister plenipotentiary of Guatemala near the Mexican Government; and Mr. Fernando Cruz, formerly minister of foreign relations of the Republic of Guatemala, the associate of General J. Rufino Barrios in the discharge of the duties of the aforesaid settlement, having met in the city of New York on the fourteenth day of August, one thousand eight hundred and eighty-two, declared that the Government of Mexico and that of Guatemala, desiring to terminate amicably the difficulties which had existed between the two republics, and with a view to establishing a solid basis for the fraternal relations which were thenceforth to unite them, agreed upon the following articles, as preliminary to a final treaty concerning boundaries on that portion of their frontier which comprises the State of Chiapas:

ARTICLE I.

The Republic of Guatemala abandons the discussion which it has maintained relative to its right to the territory of the State of Chiapas and its Department of Soconusco.

ARTICLE II.

The final treaty relative to the boundary between Mexico and Guatemala shall be concluded on the basis that Chiapas and Soconusco are to be considered as integral parts of the United States of Mexico.

ARTICLE III.

The Republic of Guatemala, being satisfied with Mexico's appreciation of the course pursued by her, and with the recognition that the lofty purposes which have inspired the arrangements made in the foregoing articles are worthy and honorable, will require no pecuniary indemnity or other compensation on account of the preceding stipulations.

ARTICLE IV.

In the event of the two contracting parties not being able to agree with respect to the fixing of the boundary, either in whole or in part, between the State of Chiapas and its Department of Soconusco, on the part of Mexico on the one hand, and on that of the Republic of Guatemala on the other, or in case the commissioners who shall be appointed by each government to draw, conjointly, the dividing line, shall differ on any point or points relative to such drawing, and in case it shall be necessary to appoint an arbitrator to settle such differences as may arise on this account, both governments agree to do so, and to request the President of the United States of America to act as such arbitrator.

ARTICLE V.

Actual possession shall serve as a basis in the drawing of the dividing line; this, however, shall not prevent both parties from abandoning this basis by common consent, for the purpose of following natural lines, or for any other reason, and in such case the system of mutual compensations shall be adopted.

Until the dividing line shall have been drawn, each contracting party shall respect the actual possession of the other.

ARTICLE VI.

The Government of the United States of Mexico and that of Guatemala pledge themselves to sign the final boundary treaty, in the city of Mexico, on the basis contained in this convention, within six months reckoned from this date, at the latest.

In testimony whereof we sign this convention in duplicate, no ratification thereof being necessary, inasmuch as it merely establishes a basis for the final boundary treaty, that treaty being the one to be submitted to both governments for their approval, according to the constitutions of the two countries.

M. ROMERO.
J. RUFINO BARRIOS.
MANUEL HERRERA, JR.
F. CRUZ.

WASHINGTON, *September 26th*, 1882.

A copy.

CAYETANO ROMERO,
Sec. ad. interim.

No. 257.

Mr. Davis to Señor Romero.

DEPARTMENT OF STATE,
Washington, October 2, 1882.

SIR: I have the honor to acknowledge the receipt of your note of the 27th ultimo, stating that you had been informed by telegraph by your government of the signature on that day of the treaty defining the boundary between Mexico and Guatemala, from the Atlantic to the Pacific. You also do me the favor to furnish a copy of the convention.

In reply, I have the honor to state that the information thus communicated is, in the highest degree, acceptable. If the instrument, as con-

cluded, should go into effect, it will put to rest a controversy dangerous to the peace and welfare of two neighboring republics, in whose prosperity and happiness the United States cannot fail to take a lively interest.

I avail, &c.,

JOHN DAVIS,
Acting Secretary.

NETHERLANDS.

No. 258.

Mr. Dayton to Mr. Frelinghuysen.

No. 7.] LEGATION OF THE UNITED STATES,
The Hague, July 17, 1882. (Received July 29.)

SIR: In conversation on Monday last with Mr. Rochaupen, upon my handing to him a copy of the printed circular of the Treasury Department addressed to United States collectors of customs informing them of the repeal of the law imposing discriminating duties on merchandise produced east of the Cape of Good Hope, imported from a place west thereof, he remarked that this government was now engaged upon the subject of the discriminating duties, amounting to 30 per cent., which the Venezuela Government had lately imposed upon all merchandise imported from the Antilles; that such action was ruinous to the commerce of Curaçoa. He also stated that the English Government had protested against this act on the part of Venezuela and had set up treaty obligations with that country against the same, but so far without effect. He said he had just been reading the communication of the President of the United States to Congress upon the subject of their relations with Venezuela and had noticed that the President had therein referred to the inability of Venezuela to fulfill her obligations. He thought the course of that government in imposing the discriminating duties referred to was not calculated to improve her position in that respect.

Very respectfully, &c.,

WILLIAM L. DAYTON.

No. 259.

Mr. Dayton to Mr. Frelinghuysen.

No. 18.] LEGATION OF THE UNITED STATES,
The Hague, September 18, 1882. (Received October 2.)

SIR: The King returned to the Hague yesterday, and to-day went in great state to the hall of the Second House, where, in the presence of the diplomatic corps and high officials of the kingdom, he opened the new session of the States General.

I inclose a copy of the King's address in the Dutch language, with a French translation furnished to me officially; also an English translation.

The loss of the monitor Adder and its crew, to which the address refers, occurred in July last. It left Ymuiden to go to Helvoetsluis. Some days afterwards the bodies of its pilot and several of the crew were found not far from Scheveningen. The crew and officers numbered over sixty. The vessel itself was after considerable search discovered keel up, at the bottom of the sea, about a mile and a half off the coast northwest of Scheveningen. It was last reported in that locality, and although the weather it encountered was rough, it was not very severe, and would not alone, without some defect in the build of the vessel or seamanship of its officers, seem to explain its loss. The cause of it is being sought for, and the whole matter investigated by the Dutch authorities.

The reference in the address to the condition of affairs in Atjih is probably caused, in part at least, by the news just received that the Atcheans have lately (August 7th instant) attacked the Dutch forces at or near Payon, causing a loss to them of 44 killed and wounded out of a force engaged of 140. Among the wounded were 2 officers. Eleven, killed, fell into the hands of the enemy. It appears that during the past year in Atjih the Dutch have lost in guerilla warfare 140 killed and wounded.

The recent law, by which 30 per cent. of the expenses of the public schools in the kingdom is to be paid out of the general treasury, has made an unusual demand upon its funds, which may in part explain the necessity of an increase of the state revenues.

The statement that propositions relative to the elective franchise would be submitted to the States General is no doubt the result of the constant efforts for an extension of that right made by the liberal party in Holland.

I am, sir, &c.,

WILLIAM L. DAYTON.

[Inclosure in No. 318.—Translation.]

ADDRESS FROM THE THRONE.

SIRS: It is agreeable to me to see the representatives of the Netherlands people again reassembled.

My relations with foreign powers are of the most friendly nature.

The navy and army have acquitted themselves, in their important duties, with a zeal worthy of praise.

The navy has suffered a deplorable loss in the foundering of the monitor Adder with its crew.

I shall trust to see passed in the course of the present session all the legal measures required in order that our new penal legislation may go into effect.

Although the state of affairs in Atjih is not all that could be desired, I have confidence that the administration of that province with the aid of the navy and army will be able more and more to confirm authority and cause security to reign.

In the other parts of the Netherland Indies the condition of affairs in general is matter of satisfaction.

The epidemics which have afflicted some portions of the population have not yet entirely ceased. The ravages of cattle diseases have nearly come to an end.

The state of the colonies in the West Indies may be considered satisfactory.

Although there is reason to congratulate ourselves upon the increase of the state's receipts of late years, an augmentation of the sources of revenue cannot longer be deferred. At the same time, there ought to be a general reformation of our taxes. A proposition tending to accomplish this reform will be presented to you.

A better regulation of local taxation seems more and more necessary. For this purpose, in connection with the revision of the fiscal system of the state, your co-operation will be asked.

A project for the modification of the law concerning higher school education is in course of preparation.

Propositions relative to the elective franchise will reach you soon.

It is my intention to cause an examination to be made as to what articles of the fundamental law it is important should be revised.

Your deliberations upon important projects of laws presented to you in former sessions are awaited with a natural interest.

May our united efforts, under the indispensable blessing of God, contribute to the happiness of our dear country.

I declare the session of the States General to be opened.

RUSSIA.

No. 260.

Mr. Frelinghuysen to Mr. Hoffman.

No. 109.] DEPARTMENT OF STATE,
Washington, December 29, 1881.

SIR: The noble action of the government in Russia in hastening as it has done to relieve the distressing situation of the survivors of the American Arctic exploring steamer Jeannette, and to facilitate their speedy restoration to their homes, is welcomed by the American people as a striking tribute of the good-will and fraternity of sentiment which have traditionally subsisted between the United States and Russia. Nor is it to the Government of the United States a less notable proof of the closeness of the ties which bind the two countries in generous fellowship. We see in this act of rescue something more than an exhibition of the natural humanity of feeling which prompts governments as well as individuals to tender succor to the distressed and relief to the needy cast on a friendly shore—we recognize it as manifesting in a higher sense the warmth of the association of two great nations whose intercourse has been from the outset marked by signal and enduring friendship, and by acts of consideration and mutual high esteem.

The President directs that you will convey these sentiments to His Imperial Majesty's government, assuring it, in the name of the government and people of the United States, of the deep gratification with which the great hospitality of Russia to our unfortunate explorers on her coast has been here received.

I am, &c.,

FRED'K T. FRELINGHUYSEN.

No. 261.

Mr. Hoffman to Mr. Frelinghuysen.

[Extract.]

No. 183.] LEGATION OF THE UNITED STATES,
St. Petersburg, January 9, 1882. (Received February 2.)

SIR: Referring to the correspondence between the Department and this legation upon the subject of American Jews in Russia, I have the honor to report the following curious case:

About three weeks ago I was called upon by a man of the name of James G. Moses, who produced his United States passport, and stated that he was a Jew; that he was employed in the Ceniselli circus in this city as stable director, and that he had been ordered out of the city as a Jew. He added that he was not "one of those Talmud Jews"; that he belonged to the American Reformed Church, known in Russia as the Karaim Jews.

* * * I asked the consul-general, who is in relations with the municipal authorities, to apply to General Kosloff, prefect of police, on Mr. Moses's behalf.

As soon as General Kosloff understood that Moses was a Karaim Jew, he told the consul-general to send the man to him the next morning accompanied by his employer.

The next moning they went accordingly, and the result of the interview was that Mr. Moses was informed that General Kosloff would recommend that permission be given him to remain, and in the mean time to give himself no uneasiness. I understand that he has since received the necessary permission.

It appears that the Karaim or Reformed Jews are of a superior class, and have never given the Russian Government any trouble or been found enrolled among the Nihilists.

Mr. Moses is a resident of New York, born in Germany, but taken to the United States when a young child.

I am, sir, &c.,

WICKHAM HOFFMAN.

No. 262.

Mr. Hoffman to Mr. Frelinghuysen.

No. 187.] LEGATION OF THE UNITED STATES,
St. Petersburg, January 16, 1882. (Received February 9.)

SIR: I have the honor to inform you that the long expected measure for the relief of the peasants in Russia, and of which I gave you an outline in my No. 113, of 5th May last, has at length been decided upon and is to go into effect January 1, 1883.

The decree has been delayed by the necessity for further examination of the question, how much the indebtedness of the peasants should be reduced, and how the deficiency was to be met.

The principal features of this measure are foreshadowed in my No. 113, to which I have the honor to refer you.

Two important points stand out in the decree, the rest being matter of detail:

1. The indebtedness of about 15,000 serfs to their former proprietors, for lands bought of them, is canceled. The state assumes this indebtedness, and the peasants are hereafter to pay the state.

2. This indebtedness to the state is reduced by at least one-seventh, and in exceptional cases considerably more.

I am, sir, &c.,

WICKHAM HOFFMAN.

No. 263.

Mr. Hoffman to Mr. Frelinghuysen.

No. 195.] LEGATION OF THE UNITED STATES,
St. Petersburg, February 4, 1882. (Received February 21.)

SIR: Referring to your dispatch No. 109, I have the honor to forward to you herewith a copy of my note of January 14, to Mr. de Giers, expressing the thanks of the President for the hospitality of Russia towards the survivors of the Jeannette, together with a translation of Mr. de Giers' note to me of February 3, in reply.

I am, sir, &c.,

WICKHAM HOFFMAN.

[Inclosure 1 in No. 195.]

Mr. Hoffman to Mr. de Giers.

LEGATION OF THE UNITED STATES,
St. Petersburg, January 2–14, 1882.

EXCELLENCY: In my note of December 9–21 last, I had the honor to inform your excellency that I had received telegraphic instructions from my government to tender its hearty thanks to all Russian authorities and persons who had been instrumental in assisting the survivors of the Jeannette.

To-day I am in receipt of written instructions upon the same subject.

The Secretary of State assures me that the noble action of the Imperial Government in hastening to relieve the distressing situation of the survivors of the American steamer Jeannette, and to facilitate their speedy restoration to their homes, is welcomed by the American people as a striking tribute to the good-will and fraternity which have traditionally existed between the United States and Russia. While to the Government of the United States it is, in addition, a notable proof of the closeness of the ties which bind the two countries in generous fellowship. Both government and people see in this act of rescue something more than an exhibition of that natural humanity which prompts governments as well as individuals to succor the distress and relieve the needs of those cast upon a friendly shore; they recognize it as manifesting the warmth of the association of two great nations, whose intercourse has been from the outset marked by signal and enduring friendship and by acts of mutual consideration and esteem.

The President directs me to convey these sentiments to His Majesty's Government, and to assure it through your excellency, in the name of the Government and people of the United States, of the deep gratification with which the great hospitality of Russia to our unfortunate explorers, cast upon her coast, has been received in the United States.

Happy to be the channel through which these earnest assurances are conveyed to your excellency, I beg at the same time to assure you, &c., &c.,

WICKHAM HOFFMAN.

[Inclosure 2 in No. 195—Translation.]

Mr. de Giers to Mr. Hoffman.

IMPERIAL MINISTRY OF FOREIGN AFFAIRS,
DEPARTMENT OF INTERIOR RELATIONS,
St. Petersburg, January 22–February 3, 1882.

SIR: I made it my duty to place before His Majesty the Emperor the note of January 2–14, which you were kind enough to address to me under the instructions of the Secretary of State of the United States for foreign affairs upon the subject of the assistance which the authorities of Eastern Siberia have been instructed to extend to the survivors of the American ship "The Jeannette."

This assistance was a duty of humanity and of respect for the brave men who had undertaken this expedition from devotion to science.

The circumstance that they belonged to a country for which sentiments of friendship are traditional in Russia certainly could only increase the ardor with which the government and the imperial authorities came to their aid in their distress.

His Majesty the Emperor was much pleased to learn that the good will of these authorities has been received by the American people as a proof of the sympathy which the Russian nation feels for them.

My august master is glad to see on every occasion these ties, to which His Imperial Majesty attaches a great importance, grow closer and closer.

Have the kindness, sir, to transmit this assurance to the Secretary of State, and receive at the same time that of my most distinguished consideration.

GIERS.

No. 264.

Mr. Hoffman to Mr. Frelinghuysen.

No. 199.] LEGATION OF THE UNITED STATES,
St. Petersburg, February 14, 1882. (Received March 5, 1882.)

SIR: At my request Mr. Rawicz, United States consul at Warsaw, has prepared for me a brief account of the late anti-Jewish riots in that city. Mr. Rawicz is a banker, and a gentleman of intelligence and experience, and I have much confidence in the soundness of his judgment and the accuracy of his statements.

I have the honor to inclose his report.

I am, sir, &c.,

WICKHAM HOFFMAN.

[Inclosure in No. 199.]

Mr. Rawicz to Mr. Hoffman.

CONSULATE OF THE UNITED STATES,
Warsaw, February 1, 1882.

A BRIEF ACCOUNT OF THE LAST RIOTS AT WARSAW.

In the month of April last, just before the holiday of Corpus Christi, on which, according to the Catholic customs, great religious processions take place all over the whole country, there appeared in the streets and workshops of our town, as well as in many of the principal manufacturing towns in the whole country, printed proclamations, instigating the Christian population against the Jews. Similar tendencies were never heard of here until the anti-Semite riots in Russia, namely, Kieff, Odessa, Charkoff, &c., and it is certain they did not spring out on this soil, but were conveyed here from the main source.

The sober and well thinking inhabitants, with the assistance of the local governor-general, succeeded in influencing the Catholic clergy, who again on their part, by proper sermons preached from the pulpits all over the country, succeeded in refraining the greatest part of the lowest class of people in taking part in the riots, and in reality the last events were only perpetrated by minor apprentices, people of the lowest rank, without any employment and reprobates, as there were hardly any amidst

the whole number of the arrested that might be said belonged to the better class of artisans; and it is a fact proved by the investigating judges that the violent hands laid upon the property of others were only those of the rabble amidst whom appeared leaders never seen here before, but that such an event could possibly take place here was not supposed even by the greatest pessimists.

During the divine service on Christmas day in the Holy Cross church, situated in one of the principal streets of this town, about 12 o'clock in the day, when the church was overcrowded with the pious, a cry of "fire" was raised, as it was afterwards ascertained, by pickpockets, one of whom was a Jew; it is said that the same cry was simultaneously raised in four other churches. The people began to throng to the entrance, and as the church doors are somewhat elevated, to which two flights of broad stone stairs of thirteen steps each are leading, here they began to crowd, fall, and trample each other, and here principally the whole catastrophe took place, so that in the course of a quarter of an hour there were thirty killed, and twenty-six seriously injured, who were taken to a hospital close by, of whom two died soon after. The governor-general appeared on the spot in order to exert his influence on the excited populace, and just at that time voices were heard from amidst the crowd, "It is the Jews that caused this disaster; let us have our revenge on the Jews!"

Being a first rank holiday, only the Jewish shops were half opened, and the rabble began to pilfer the jewish brandy and tobacco shops, as well as their private lodgings, principally those belonging to the poorer class and those situated in the back streets, and before the police, gendarmes, and troops could render any real service, the rest of that day and the whole night passed; on the next day, however, the authorities took more energetical steps, and on the third succeeded in putting a final stop, and since that time no attempt whatever was made to renew the riots. During these whole disturbances there has not occurred a single case neither of murder, or violation of woman, as the chief object of the rabble was pilfering, which was effected, according to official statement, in 1,025 shops, and the total number of families that suffered is stated to be 2,011, about10,000 persons; and the damages caused by these broils, according to the official statement of the committee appointed for that purpose, was reduced to the amount of 767,339 rubles, as according to private Jewish accounts it reached to 1,200,000 rubles, which sum was doubtless greatly exaggerated.

The number of persons arrested was over 3,000. The exaggeration of these street broils in the Times, as well as in many of the other foreign papers, may be principally attributed to the Jewish propaganda, for the purpose of exciting commiseration, and consequently augmenting the subscriptions collected everywhere, and which to the present day amount to 146,400 rubles.

Besides the poorer class of Jewish shopkeepers who sustained considerable losses, as many of them lost all they had, it also affected in a great measure many of the house proprietors, merchants, manufacturers, brewers, with whom that class of people carried on business, as on that account the Jews, with few exceptions, do not pay neither their rents, nor for the goods they had taken.

It is the general conviction here, and there is not the least doubt in the truth of it, that this evil propensity was totally unknown here, but, as I already stated above, was brought over from the main source, but which, notwithstanding the antipathy towards the Jews, fortunately did not take deep root, thanks to the clergy, who since the very appearance of the stimulating proclamations, not only in the churches, but availed themselves of every opportunity to avert the evil, and who now continue their work to obliterate the traces of the inhuman deeds.

* * * * * * *

I am, &c.,

JOSEPH RAWICZ,
United States Consul.

No. 265.

Mr. Frelinghuysen to Mr. Hoffman.

No. 120.] DEPARTMENT OF STATE,
Washington, March 7, 1882.

SIR: I inclose copies of letters from the Treasury, and a copy of a letter from Messrs. Lynde & Hough, of San Francisco, to the Secretary of the Treasury, touching the Pacific coast fisheries. This latter communication states that according to late news "foreign vessels must receive an order from the governor of Siberia, besides paying duties of $10 per ton on all fish caught in Russian waters," which they say would

be ruinous to their business. In view of the above, I have to ask that you will make immediate inquiry on this subject, and report the facts. If a brief telegram will furnish information of value to our fishermen in this regard, you can send one.

I am, &c.,

FRED'K T. FRELINGHUYSEN.

[Inclosure 1 in No. 120.]

Mr. Folger to Mr. Frelinghuysen.

TREASURY DEPARTMENT,
February 2, 1882.

SIR: I have the honor to acknowledge the receipt of your letter of the 3d ultimo, transmitting a copy of a dispatch of the 21st of November last from the minister of the United States at Tokei, Japan, with its inclosure, relative to the notice given by the Russian consul at Yokohama in reference to the licensing of foreign vessels trading, hunting, or fishing on the Asiatic coast of Russia.

I have to inform you that this department has issued circular instructions to collectors of customs, and others, at every port throughout the country to which the Russian consul's notice is subjoined, dated January 30, 1882, and I inclose herewith six copies of the circular.

Very respectfully,

CHAS. J. FOLGER.

[Circular.]

Permit required for hunting, trading, and fishing on Russian coasts of the Okhotsk and Behring Seas.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., January 30, 1882.

To collectors of customs and others:

The subjoined notice by the Russian consul at Yokohama, that American vessels are not allowed, without a special permit or license from the governor-general of Eastern Siberia, "to carry on hunting, trading, fishing, &c., on the Russian coasts, or islands in the Okhotsk or Behring Seas, or on the northeastern coast of Asia, or within the sea-boundary line," is published by the department for the information of American shipmasters interested.

It will be observed that the Russian order took effect on January 1, 1882.

CHAS. J. FOLGER,
Secretary.

NOTICE.

At the request of the local authorities of Behring and other islands, the undersigned hereby notifies that the Russian Imperial Government publishes, for general knowledge, the following:

I. Without a special permit or license from the governor-general of Eastern Siberia, foreign vessels are not allowed to carry on trading, hunting, fishing, &c., on the Russian coast or islands in the Okhotsk and Behring Seas, or on the northeastern coast of Asia, or within their sea-boundary line.

II. For such permits or licenses, foreign vessels should apply to Vladivostok, exclusively.

III. In the port of Petropaulovsk, though being the only port of entry in Kamtschatka, such permits or licenses shall not be issued.

IV. No permits or licenses whatever shall be issued for hunting, fishing, or trading at or on the Commodore and Robben Islands.

V. Foreign vessels found trading, fishing, hunting, &c., in Russian waters without a license or permit from the governor-general, and also those possessing a license or permit who may infringe the existing by-laws on hunting, shall be confiscated, both vessels and cargoes, for the benefit of the government. This enactment shall be enforced henceforth, commencing with A. D. 1882.

VI. The enforcement of the above will be intrusted to Russian men-of-war, and also to Russian merchant-vessels, which, for that purpose, will carry military detachments and be provided with proper instructions.

A. PELIKAN,
H. I. R. M. Consul.

YOKOHAMA, *November* 15, 1881.

[Inclosure 2 in No. 120.]

Mr. Folger to Mr. Frelinghuysen.

TREASURY DEPARTMENT,
February 24, 1882.

SIR: I have the honor to inclose herewith, for such action in the case as you may deem proper, a letter from Messrs. Lynde & Hough, of San Francisco, Cal., stating that they are extensively engaged in the Pacific coast cod fisheries, and that they will fit out their vessels, to sail about the 1st of May next, in that enterprise, in which they have never been molested; but they now learn that foreign vessels must receive an order from the governor of Siberia, besides pay a duty of $10 per ton on all fish caught in Russian waters, which, if sustained, will be ruinous.

Very respectfully,

CHAS. J. FOLGER,
Secretary.

[Inclosure 3 in No. 120.]

Messrs. Lynde & Hough to Mr. Folger.

SAN FRANCISCO, *February* 15, 1882.

SIR: You will please pardon us for this seeming intrusion, but the matter we now seek your aid and kind assistance is of great import to us.

We are now and have been extensively engaged in the Pacific coast cod fisheries, and, in fact, are among the very few fifteen years ago who started in a small way, believing with energy and fair dealing we could work up an enterprise that would be a benefit to the coast. Our ideas were correct. We have been yearly sending vessels to the coast of Kamtschatka (sea of Okhotsk) for fish. We never have been molested in Russian waters from catching codfish or procuring bait, which are small salmon in the rivers, or filling fresh water for use of ship, but it appears now there is a law which has never been enforced against foreigners, the same we have recently noted, and which we have been apprised of, and the substance is that foreign vessels must receive an order from the governor of Siberia, besides must pay a duty of $10 per ton on all fish caught in Russian waters. This decree, if sustained, is ruinous to one of the best and rising industries of the coast, and as we fit our vessels to sail about 1st of May, leaves us but little chance to arrange matters this season save with your kind assistance in the matter. Our business is fishing entirely. We use no trade with natives, having nothing to do with the taking or purchasing of furs. At this time we are placed in a very bad predicament. Trusting that you can relieve us from this embarrassment, and receive an early reply on the subject.

We are, &c.,

LYNDE & HOUGH.

P. S.—Our vessels fish from ten to twenty miles from shore.

No. 266.

Mr. Hoffman to Mr. Frelinghuysen.

No. 207.] LEGATION OF THE UNITED STATES,
St. Petersburg, March 14, 1882. (Received April 3.)

SIR: I have the honor to acknowledge the receipt of a circular of the Treasury Department of July 30 last, upon the subject of fishing, &c., in the Behring Sea and in the Sea of Okhotsk.

I am able to give the Department some little information upon this subject, derived nearly four years ago from Mr. Charles H. Smith, for many years a resident of Vladivostok, and at one time our consul or vice-consul at that port.

A glance at the map will show that the Kurile Islands are dotted across the entrance to the Sea of Okhotsk the entire distance from Japan on the south to the southernmost cape of Kamtschatka on the north.

In the time when Russia owned the whole of these islands, her representatives in Siberia claimed that the Sea of Okhotsk was a *mare clausum*, for that Russian jurisdiction extended from island to island and over two marine leagues of intermediate sea from Japan to Kamtschatka.

But about five years ago Russia ceded the southern group of these islands to Japan, in return for the half of the island of Sahahis, which belonged to that power.

As soon as this was done it became impossible for the Siberian authorities to maintain their claim. My informant was not aware that this claim had ever been seriously made at St. Petersburg.

The best whaling grounds are found in the bays and inlets of the Sea of Okhotsk. Into these the Russian Government does not permit foreign whalers to enter, upon the ground that the entrance to them, from headland to headland, is less than two marine leagues wide. But while they permit no foreign whalers to penetrate into these bays, they avail themselves of their wealth very little. The whole privilege of whaling in those waters is a monopoly owned by an unimportant company, which employs two or three sailing schooners only, the trying and other laborious work being done at their stations on shore.

Referring to my No. 44, of June, 1878, I have the honor to add that Baron Stoeckl told me in conversation last winter that we failed to make a fishing treaty with Russia in 1868 principally on account of the vested interests of this company.

Mr. C. H. Smith now resides at Great Falls, N. H., and would be glad, I am sure, to put his information at the service of the Department.

I am, sir, &c.,

WICKHAM HOFFMAN.

No. 207.

Mr. Hoffman to Mr. Frelinghuysen.

No. 211.] LEGATION OF THE UNITED STATES,
St. Petersburg, March 27, 1882. (Received April 13.)

SIR: I have the honor to acknowledge the receipt of your No. 120, with its inclosures, in reference to our Pacific coast fisheries. Your dispatch reached me yesterday, and to-day I have written to Mr. de Giers upon the subject, and I propose to call upon him upon his first reception day. In the meantime, and until further information, I do not see that any new orders necessarily affecting our fishermen have been issued by the Russian Government. Messrs. Lynde & Hugh have apparently given insufficient attention to the words "Russian waters." These waters are defined in the notice published by the imperial vice-consulate at Yokohama as follows:

Fishing, &c., on the Russian coast or islands in the Okhotsk and Behring Seas, or on the notheastern coast of Asia, or within their sea boundary line.

If I recollect correctly, the information given me by Mr. Smith upon this subject, referred to in my No. 44, of June, 1878, and in my No. 207, of this month, the cod banks lie in the open Sea of Okhotsk, many marine leagues off the southwestern coast of Kamschatka. I observe that Messrs. Lynde & Hugh state that their vessels fish from ten to twenty-five miles from the shore. At that distance in an open sea they cannot be said "to fish upon the coast."

I do not think that Russia claims that the Sea of Okotsk is a *mare clausum*, over which she has exclusive jurisdiction. If she does, her claim is not a tenable one since the cession of part of the group of the Kurile Islands to Japan, if it ever were tenable at any time.

I may add that, according to the information given me four years ago, Russia opposes no objections to foreign fishermen landing in desert places on the coast of Kamtschatka, far from the few villages which are found on that coast, for the purposes of catching bait and procuring fresh water; but she does object to all communication between trading and fishing vessels and the inhabitants, alleging that these vessels sell them whisky, upon which they get drunk and neglect their fishing, their only means of livelihood, and then, with their wives and children, die of starvation the ensuing winter.

I am, sir, &c.,

WICKHAM HOFFMAN.

No. 268.

Mr. Frelinghuysen to Mr. Hoffman.

No. 123.] DEPARTMENT OF STATE,
Washington, April 15, 1882.

SIR: The prejudice of race and creed having in our day given way to the claims of our common humanity, the people of the United States have heard, with great regret, the stories of the sufferings of the Jews in Russia. It may be that the accounts in the newspapers are exaggerated, and the same may be true of some private reports. Making, however, due allowance for misrepresentations, it can scarcely be doubted that much has been done which a humane and just person must condemn.

The President, of course, feels that the Government of the Emperor should not be held morally responsible for acts which it considers wrong, but which it may be powerless to prevent.

If that be true of this case, it would be worse than useless for me to direct you, as the representative of the United States, to give official expression to the feeling which this treatment of the Jews calls forth in this country. Should, however, the attitude of the Russian Government be different, and should you be of the opinion that a more vigorous effort might be put forth for the prevention of this great wrong, you will, if a favorable opportunity offers, state, with all proper deference, that the feeling of friendship which the United States entertains for Russia prompts this government to express the hope that the Imperial Government will find means to cause the persecution of these unfortunate fellow-beings to cease.

This instruction devolves a delicate duty upon you, and a wide discretion is given you in its execution. However much this Republic may disapprove of affairs in other nationalities, it does not conceive that it is its right or province officiously and offensively to intermeddle. If, however, it should come to your knowledge that any citizens of the United States are made victims of the persecution, you will feel it your duty to omit no effort to protect them, and to report such cases to this Department.

I am, &c.,

FRED'K T. FRELINGHUYSEN.

No. 269.

Mr. Hoffman to Mr. Frelinghuysen.

No. 221.] LEGATION OF THE UNITED STATES,
St. Petersburg, April 29, 1882. (Received May 15.)

SIR: The anti-Jew riots have commenced again in the south of Russia. They have been marked, as heretofore, by great and wanton destruction of property, but by little personal violence.

The scene of the worst disturbances has been the town of Balta, a town of about 25,000 inhabitants, nearly three-quarters of whom are Israelites. It lies about 125 miles northwest of Odessa.

The riot is reported to have been from some trifling cause, such as the refusal of a Russian peasant to pay for the liquor he had drunk in a wine-shop kept by a Jew.

The police, which was very weak, appears to have interfered simply to prevent the Jews from defending themselves.

At first the rioters did not number more than two hundred, many of them boys. But soon the peasants began to come in from the country, joined the rioters, and gave a more serious turn to the affair. The riot lasted two days before troops arrived from Odessa to quell it. During this time, of the thousand houses occupied by Jews, all, except perhaps fifty, were gutted and sacked. As far as ascertained, one Israelite only lost his life. But the amount of suffering undergone by over 15,000 people, men, women, and children, destitute of food and lodging, is painful to contemplate.

I am satisfied that the Russian Government is truly anxious to put a stop to these riots. * * * It is reported that in the country far from garrison towns the German inhabitants are very uneasy, and the saying is not uncommon, "After the Jews, the Germans."

But the position of the Russian Government in this matter is an exceedingly difficult one. In a conversation with General Ignatieff a few days since, he told me that the government had received the reports of the numerous local boards appointed by it last year to suggest measures for the amelioration of the condition of the Jews; that they had not only by a majority, but unanimously, recommended their expulsion from the empire. "We have then," he said, "on the one hand 5,000,000 Jews, Russian subjects, clamoring to be freed from all special restraints, and we have on the other 85,000,000 Russian subjects clamoring to have the 5,000,000 expelled from the empire. What is to be done in such a case?"

I am, sir, &c.,

WICKHAM HOFFMAN.

No. 270.

Mr. Hoffman to Mr. Frelinghuysen.

No. 228.] LEGATION OF THE UNITED STATES,
St. Petersburg, May 22, 1882. (Received June 6.)

SIR: Referring to your No. 120 and to my Nos. 211 and 215, I have the honor to forward to you herewith a translation of a note recently re-

ceived from Mr. de Giers upon the subject of hunting, fishing, and trading in the Pacific waters.

I do not see that there is anything in the regulations referred to that affects our whalers, nor our cod-fisheries either, except that when they go ashore to catch small fish for bait in the streams, they expose themselves to interruption from the Russian authorities, who, finding them in territorial waters, may accuse them of having taken their fish therein.

I will endeavor to procure and forward you a translation of the articles of the code referred to by Mr. de Giers, that you may have the whole matter before you. This cannot be done, however, under several days.

I am, sir, &c.,

WICKHAM HOFFMAN.

[Inclosure in No. 228.—Translation.]

Mr. de Giers to Mr. Hoffman.

MINISTRY OF FOREIGN AFFAIRS, ASIATIC DEPARTMENT,
May 8–20, 1882.

SIR: Referring to the exchange of communications which has taken place between us on the subject of a notice published by our consul at Yokohama relative to fishing, to hunting, and to trade in the Russian waters of the Pacific, and in reply to the note which you addressed to me, dated March 15–27, I am now in a position to give you the following information:

A notice of the tenor of that annexed to your note of the 15th March was, in fact, published by our consul at Yokohama, and our consul-general at San Francisco is also authorized to publish it.

This measure refers only to prohibited industries and to the trade in contraband; the restrictions which it establishes extend strictly to the territorial waters of Russia only. It was required by the numerous abuses proved in late years, and which fell with all their weight on the population of our seashore and of our islands, whose only means of support is by fishing and hunting. These abuses inflicted also a marked injury on the interests of the company to which the imperial government had conceded the monopoly of fishing, hunting ("exportation"), in islands called the "Commodore" and the "Seals."

Beyond this new regulation, of which the essential point is the obligation imposed upon captains of vessels who desire to fish and to hunt in the Russian waters of the Pacific to provide themselves at Vladivostok with the permission or license of the governor-general of Oriental Siberia, the right of fishing, hunting, and of trade by foreigners in our territorial waters is regulated by article 560 and those following, of vol. 12, part 2, of the Code of Laws.

Informing you of the preceding, I have the honor, &c.,

GIERS.

No. 271.

Mr. Hoffman to Mr. Frelinghuysen.

No. 231.] LEGATION OF THE UNITED STATES,
St. Petersburg, June 14, 1882. (Received July 3.)

SIR: Referring to my No. 228, I have the honor to forward to you herewith a translation of a note and inclosure received yesterday from Mr. de Giers upon the subject of fishing and hunting in the Russian Pacific waters. As far as I am at present informed, the department has now before it the whole legislation of Russia upon the subject.

I am, sir, &c.,

WICKHAM HOFFMAN.

[Inclosure in No. 231.—Translation.]

Mr. de Giers to Mr. Hoffman.

MINISTRY OF FOREIGN AFFAIRS, ASIATIC DEPARTMENT,
June 1–13, 1882.

SIR: In consequence of the note which you addressed to me on the 13-25th May, relative to fishing and hunting in our Pacific waters, and in which you expressed the desire to have a translation of the articles of our code which govern the matter, I have the honor to transmit to you herewith a translation of articles 560, &c., of the code, vol. 12, part 2.

Receive, sir, &c.,

GIERS.

[Translation.]

ART. 560. The maritime waters, even when they wash the shores where there is a permanent population, cannot be the subject of private possession; they are open to the use of one and all.

ART. 561. No exception will be made to this general rule except under the form of special privileges, granted for the right of fishing in certain fixed localities, and during limited periods.

ART. 562. The above regulation regarding the right of fishing and analogous occupations on the seas extends equally to all lakes which do not belong to private properties.

ART. 565. No restriction shall be established as regards the apparatus (engines) employed for fishing and for analogous occupations in the high seas, and it shall be permitted to every one to use for this purpose such apparatus as he shall judge to be best according to the circumstances of the locality.

ART. 571. Ships in quarantine are not permitted to fish; the same prohibition extends in general to all persons in those localities where ships are lying undergoing quarantine.

No. 272.

Mr. Hoffman to Mr. Frelinghuysen.

No. 241.] LEGATION OF THE UNITED STATES,
St. Petersburg, July 1, 1882. (Received July 17.)

SIR: Referring to your No. 123, of 15th April last, and to my No. 226, in reply, I have the honor to forward to you herewith a copy of a circular of Count Tolstog, minister of the interior, addressed to the governors of the different provinces of the empire, upon the subject of the persecution of the Jews, together with a translation of the same.

You will see that the opinion which I ventured to express in my No. 226, and previously in my No. 221, that the Russian Government was sincerely desirous of putting a stop to all violence towards the Jews, is borne out by this circular.

I am, sir, &c.,

WICKHAM HOFFMAN.

[Inclosure in No. 241.—Translation from the Journal de St. Petersbourg, June 12–24, 1882.]

Circular of the minister of the interior to the government, June 9–21, 1882, *relative to measures to be taken to prevent disorders which might break out against the Israelites.*

The regulations of the committee of ministers approved by His Majesty the Emperor the 3d May last set forth:

That it must be brought to the public knowledge that the government has resolved to pursue with inflexibility all violence exercised against the person and the property

of the Israelites, who are under the protection of the laws, common in this respect to all the population, by the same right as to those of the other subjects of His Majesty the Emperor. That the competent provincial authorities must be informed that the charge belongs to their responsibility of the measures now to be taken with a view to avoid occasions of similar disorders and to put a stop to them as soon as they may break out; and for all negligence in this respect on the part of the administrative authorities and of the police, when they might have, but have not, taken the trouble to prevent acts of violence, those who have been guilty will be relieved of their functions.

The publication of this expression of the imperial will has unfortunately been provoked on several occasions by disorders which have been renewed in different localities of the empire, accompanied by violence against the Israelite population.

Such disorders, which, as a result, cause individuals to lose, without distinction of race and religion, the certainty of the security of their persons and of their property, prove the insufficiency of the guaranty of the regular and peaceable course of public life, and deprive the government of the possibility of devoting itself solely to a capital question, and just now of special importance, viz, to harmonize the activity of all governmental and social institutions and direct it towards the determined and clearly defined object of the re-establishment of tranquillity and order, which are the only sure guarantees of the ulterior development of public security and tranquillity. With this aim, the regulations of the committee of ministers not only invite the competent authorities to take peremptory measures to prevent the manifestation of all acts of violence, but points out in addition the necessity of relieving from their functions persons who may be guilty of any negligence in this respect.

In calling the most serious attention of the governors of the provinces to the punctual and inflexible execution of the imperial will expressed by the committee of ministers, I think proper on my side to explain, in development of the fundamental idea, that violence and arbitrariness cannot be justified by any inciting causes; that for this reason the adoption of effective measures to be taken to prevent and arrest disorders rests upon the personal responsibility of the governors; and that every manifestation of local disorder will, as its inevitable consequence, render also legally responsible all the functionaries whose duty was the immediate charge of preventing disorders.

Not judging it possible to give here any more direct instructions relative to the means of attaining the above-mentioned end, considering that, on one side, these means are indicated by the law itself, and that on the other the choice to make among them when it is a question of applying them, depends upon accidental circumstances, temporary and local, I have the conviction that the governors of the provinces will carry out all the requirements clearly established by the imperial will, and will fully justify my hopes on this subject by pursuing on their side, without the least hesitation, all negligence of the authorities.—[Official Messenger.]

SPAIN.

No. 273.

Mr. Frelinghuysen to Mr. Hamlin.

No. 20.] DEPARTMENT OF STATE,
Washington, January 10, 1882.

SIR: Referring to instruction No. 195, of the 2d November last, to Mr. Fairchild, and other correspondence, I inclose, as a further paper connected with the subject of that instruction, a copy of a letter from Mr. Houghton, secretary of the Maritime Association of New York, and of a memorial of that association, respecting the charge of 10 cents per ton levied by the Spanish consul there on cargoes for Cuba and Porto Rico.

I am, &c.,

FRED'K T. FRELINGHUYSEN.

[Inclosure 1 in No. 20.]

Mr. Houghton to Mr. Frelinghuysen.

MARITIME ASSOCIATION OF THE PORT OF NEW YORK,
New York, December 16, 1881.

SIR: I have the honor to transmit herewith the memorial of this association upon the subject of the illegal tax of 10 cents per ton upon cargoes for Cuba and Porto Rico levied by the Spanish consulate, and trust that it may have your early attention.

Yours, &c.,

F. W. HOUGHTON,
Secretary.

[Inclosure 2 in No. 20.]

MEMORIAL OF THE MARITIME ASSOCIATION OF NEW YORK.

To the honorable Secretary of State:

The undersigned ship-owners and merchants of New York respectfully ask your attention to the charge of 10 cents per ton made by Spanish consuls upon the cargo of every vessel clearing from an American port to any port of the islands of Cuba or Porto Rico.

While we are aware that the Government of Spain has the right to impose any duty upon, or even to prohibit, importations into the Spanish colonies, we respectfully submit that the manner of collecting so large a duty as 10 cents upon each ton of a ship's cargo by requiring the ship itself to pay it in advance, and in an American port, is highly objectionable in form, and is unnecessarily burdensome upon the ship-owners.

The ship is refused clearance at the consulate until the impost is paid, and in the case of a miscellaneous cargo it is impossible for the owners of the vessel to collect the same from the shippers. It amounts in the present form to a clearance charge upon the ship itself, while if it were collected at the Spanish port upon arrival, it would seem, as it really is intended, we presume, to be, an import duty upon the cargo, and would be paid by the consignees.

We feel assured that if the matter were brought to the notice of the Spanish Government through your department it would receive attention, and perhaps thereby American ship-owners, already sufficiently burdened, would be relieved of a difficulty which, as at present imposed, bears very heavily upon the carrying trade to the Spanish colonies.

For these reasons we beg the friendly remonstrances of your department with the Spanish Government.

New York, December 12, 1881.

(Signed by the Maritime Association of New York and by 79 mercantile firms.)

No. 274.

Mr. Hamlin to Mr. Frelinghuysen.

No. 10.] LEGATION OF THE UNITED STATES,
Madrid, January 16, 1882. (Received February 3.)

SIR: On assuming charge of the legation, General Fairchild invited my special attention to Mr. Blaine's instructions Nos. 195 and 197, relating to certain fees exacted by Spanish consuls in the United States of American vessels clearing for Spanish ports. After a careful examination of the subject, I addressed a note on the 7th instant to the minister of state, a copy of which I have the honor to inclose for your information.

I have, &c.,

HANNIBAL HAMLIN.

[Inclosure in No. 10.]

Mr. Hamlin to the Marquis de la Vega de Armijo.

LEGATION OF THE UNITED STATES,
Madrid, January 7, 1882.

EXCELLENCY: The attention of the Department of State has been called (through Messrs. Miller & Houghton, merchants at New York) to a notice issued by the consul-general of Spain in that city, and dated 14th October, 1881. The notice reads as follows:

"By orders received from Madrid, on and after October 31 vessels going to Cuba and Porto Rico will pay in this office the same clearance fees as vessels bound for Spain."

On learning of this "notice," Messrs. Miller & Houghton addressed a letter, on the 27th October, to the consul-general, requesting to be informed as to the exact meaning of said "notice." The consul-general replied on the next day (the 28th October) as follows:

"In answer to your inquiry by letter of the 27th instant, I beg to say that, in conformity with orders received from Madrid, vessels bound for Spain, Cuba, and Porto Rico will pay in this office, from the 31st instant, the following clearance fees: For the manifest, $6; for bill of health, $4; for crew list, $4; and for cargo, 10 cents for every 1,000 kilograms."

The Department of State having also received communications from merchants of other ports in the United States, complaining of the Spanish consular fees on vessels clearing for ports in Spain, Cuba, and Porto Rico, and particularly of the additional charge of 10 cents on every 1,000 kilograms of the vessel's cargo, I am instructed to invite your excellency's attention to the subject, with a view to having the charge last above mentioned abolished.

In inviting your excellency's attention to this subject, your excellency will permit me to refer to the correspondence which took place on this very subject between this legation and the department under your excellency's worthy charge in the year 1876. According to the then new Spanish consular tariff, vessels of the United States clearing for Spanish ports were obliged to pay Spanish consuls, besides the regular fee for their clearance papers, the sum of 10 cents on every package, whether large or small, of their cargo. This latter charge was looked upon by my government as an export duty levied by Spain in our ports on merchandise sent to the ports of Spain. Protest against such a charge was therefore made, and the government of His Catholic Madjesty, acknowledging the justness of the protest, issued a royal order, dated the 18th of October, 1876, abolishing the charge on packages.

It would seem from the present complaints that the royal order above referred to has been revoked, or, if not revoked, the charge which it abolished has been restored by the substitution of a charge on the weight of a vessel's cargo. In complaining against this charge to the Department of State, the merchants give, as an illustration of their position, the following statement of what a vessel carrying 700 tons is obliged to pay to Spanish consuls before obtaining her clearance papers: First, the regular clearance fees, $23; second, on first 50 tons of cargo, $8; third, on remaining 650 tons, at 10 cents per ton, $65; in all, $96.

If the merchants or the shippers do not pay these charges, the consuls refuse to grant the necessary clearance papers, and if the vessel sails without them, she is heavily fined on her arrival in a Spanish port. Consequently the merchants and shippers have no alternative but to pay the excessive charges demanded by the consuls. Again, if the vessel is bound for a Cuban port, she is obliged to pay, on her arrival, an additional tonnage duty of $1.35 per ton. Then again, if the vessel's manifest does not show the exact weight of her cargo, she is liable, on her arrival, to a fine of from $100 to $300, and in some cases to even a larger sum, and, as it is impossible to calculate the amount of the consul's fees until the vessel is completely loaded, and in view also of the fines to which a captain of a vessel is liable on arrival at a Spanish port (however innocent he may be of any intention to infringe on the customs regulations of the port of arrival), the merchants complain that it is difficult to find vessels willing to proceed to Spanish ports so long as they can find cargoes for ports of other nations. This fact, I need hardly tell your excellency, is very injurious to the commercial interests, not only of the United States, but to those of Spain as well. I feel sure that Spain does not intend and does not desire to put obstacles in the way of the commercial relations between the two countries. On the contrary, I am confident that she is desirous, as is my own government, to do all that can be done to increase so much as may be possible those relations.

But, putting aside all consideration of the commercial relations between the two countries, the present charge imposed by the Spanish consul-general at New York and by the Spanish consuls in other ports of the United States of 10 cents on every 1,000 kilograms on the cargo of vessels clearing for Spanish ports is considered by my

government in the same light as was the package charge above referred to. Indeed, the Government of the United States can look upon such a charge in no other way than as being an export duty levied in its ports by Spain, and as such strongly protests against it.

In presenting this protest for the consideration of your excellency, I may be permitted to make the observation that I am confident that the Government of His Catholic Majesty does not propose to arrogate to itself the right to levy an export duty in the ports of foreign and friendly nations. Such a duty, I need hardly tell your excellency, can only be levied by the government of the port from whence the merchandise may be shipped. This being the case, I am likewise confident that the Government of His Catholic Majesty would be the first among the great commercial nations of the world to protest against such a duty being levied in its own ports by foreign consuls on merchandise shipped to foreign ports. This duty, in the opinion of my government, is so clearly an export duty levied by Spain in the ports of the United States as to need no argument, and as such my government deems it inadmissible, and expects that it will be discontinued, as was the "package" duty levied by Spain in 1876. That this expectation will be realized my government entertains no doubt, upon a consideration of the question by that of His Catholic Majesty.

I therefore present the question to your excellency, and in so doing beg that your excellency will give the subject that early and attentive consideration which its importance so justly merits.

I avail, &c.,

HANNIBAL HAMLIN.

No. 275.

Mr. Frelinghuysen to Mr. Hamlin.

No. 24.] DEPARTMENT OF STATE,
Washington, January 20, 1882.

SIR: Referring to instruction No. 195, of the 2d November last, to your predecessor, and to my instruction of the 10th instant, I inclose a copy of a letter furnishing additional particulars of the levy of a charge of 10 cents per ton on cargoes for Spanish ports by Spanish consuls in this country.

I am, &c.,

FRED'K T. FRELINGHUYSEN.

[Inclosure 1 in No. 24.]

Messrs. Witherspoon & Townsend to Mr. Frelinghuysen.

BOSTON, *January* 4, 1882.

SIR: The captain of barkentine John Baizley, of Philadelphia, cleared for Guatanamo, Cuba, and paid consular fees to Spanish consul, amounting to $77.40, $14 of which were for customary fees for such clearances, and $63.40 a charge of 10 cents per ton on amount of cargo carried, which he considered an illegal charge, and proposed to pay said amount under protest; but was informed that he could not pay said fee under protest, nor could he clear his vessel until such amount was handed over to the consul. Not wishing to delay his vessel, he paid the money and sent a copy of protest by registered letter to consul last night. He wished us to write you and inclose a copy of his protest and ask your advice upon this matter.

Yours, very truly,

WITHERSPOON & TOWNSEND.

[Inclosure 2 in No. 24.]

PROTEST OF THE CAPTAIN OF THE BARKENTINE JOHN BAIZLEY.

BOSTON, *January* 2, 1882.

Consul of Spain, Boston:

DEAR SIR: Please take notice that the payment of consular fees on the cargo of the John Baizley are paid under protest.

Yours, truly,

F. P. SHEPHERD,
Master.

COMMONWEALTH OF MASSACHUSETTS,
County of Suffolk:

Personally appeared before me Capt. Frank P. Shepherd, master of the barkentine John Baizley, who declared that he made the above protest, reserving all rights or claims that he may be entitled to thereby.

GEORGE C. EMERY,
Notary Public.

No. 276.

Mr. Frelinghuysen to Mr. Hamlin.

No. 28.] DEPARTMENT OF STATE,
Washington, January 30, 1882.

SIR: Referring to the instruction to Mr. Fairchild of the 2d November last (No. 195), touching the charge made by Spanish consuls of 10 cents per 1,000 kilograms of the cargoes of vessels clearing from our ports for Cuba and Porto Rico, I inclose a paper, described below, presenting further facts respecting this charge.

I am, &c.,

FRED'K T. FRELINGHUYSEN.

[Inclosure in No. 28.]

Messrs. E. D. Bigelow & Co. to Mr. Frelinghuysen.

BALTIMORE, *January* 24, 1882.

SIR: We have the honor herewith to put before you a petition, signed by merchants, ship-owners, and ship-brokers, of this port, asking your intervention in the matter therein referred to.

Very respectfully,

E. D. BIGELOW & CO.

[Inclosure to inclosure in No. 28.]

PETITION OF MERCHANTS OF BALTIMORE.

BALTIMORE, *December* 30, 1881.

SIR: The undersigned merchants, ship-owners, and ship-brokers of Baltimore respectfully ask the attention of your department to a charge imposed by the Spanish Government upon every vessel clearing from an American port to a port in Cuba or Porto Rico, amounting to 10 cents per ton on the cargo laden on board such vessel.

A clearance of the vessel at the Spanish consulate cannot be obtained until said tax has been paid, and it is therefore in the present form a heavy tax on the already overburdened ship-owner.

From the manner in which the tax in question is levied, there seems no doubt that it is intended as a duty on the goods, and should therefore be collected from the shipper or receiver of the cargo, and not from the ship-owner.

Assured that if the matter is presented to the Spanish Government through your department it will receive attention, we sincerely hope that the negotiations will result in the ship-owner being relieved of a difficulty which now bears heavily on the trade to the Spanish colonies named.

For reasons here given we beg the friendly remonstrance of your Department with the Spanish Government.

E. D. BIGELOW & CO., AND OTHERS.

No. 277.

Mr. Frelinghuysen to Mr. Hamlin.

No. 33.] DEPARTMENT OF STATE,
Washington, February 15, 1882.

SIR: In Mr. Blaine's instruction to you of the 23d of November last, concerning the long pending and still unsettled claim of the owners of the bark Masonic, some general observations were submitted in regard to the arbitrary and unjust surveillance exercised toward American merchant vessels in Spanish colonial ports. These suggestions of my predecessor were made in the mutual interest of American and Spanish commerce, and in promotion of the friendly relations which have so long subsisted between the two nations. Since that instruction was forwarded three other cases of less pecuniary magnitude, but of scarcely less hardship, have been brought to the attention of the Department. In regard to each of these, instructions have also been forwarded to your legation, but as pertinent to the subject of this instruction it seems proper to advert briefly to the facts upon which they rest.

The American brig George W. Chase was fined fifty dollars in November last by the customs authorities at Sagua the sole ground for the fine being an omission of certain words in a manifest. The clause of the document being "900 bundles of hoops forty feet long [40 hoops in each bundle]," the words inclosed in brackets were inadvertently omitted by the Spanish consul at Philadelphia, who transcribed the document; and although the officer in question certified as to the mistake, the imposition of the fine was nevertheless adhered to. The second case [brought to attention by No. 1090 of Vice-Consul-General Williams] is that of the steamer Ellie Knight, which entered the port of Havana with a cargo of cattle from Mobile and Key West, on the 27th December last, having on board 60,000 feet of lumber destined for Key West, but which was kept on board as ballast while crossing the Gulf. As a cattle-carrying boat the steamer was chargeable, under the Spanish laws and revenue regulations governing the ports of Cuba, to a tonnage duty of five cents per ton, which would have made the charge $14.90, but, instead of this, the customs officers, on account of the 60,000 feet of lumber, assessed a duty of $1.30 per ton, making the amount on the vessel's tonnage $387.40, an excess of $372.50.

Still another and more recent case was that of the steamer Santiago, of New York, a vessel regularly engaged in the trade between New York and the ports of Santiago de Cuba and Cienfuegos, on the south side of the island of Cuba. Under circumstances of great apparent hardship, a fine of nineteen hundred dollars was imposed on the vessel, and the master, Captain Phillips, was obliged to execute a bond, with sureties for the amount, in order to secure a clearance for his vessel.

In each of these cases instructions have been forwarded to you, and they are adverted to here only as being pertinent to the general subject of this instruction.

They are examples of many similar occurrences to American vessels in the colonial ports of Spain. Hitherto the consul-general of the United States at Havana has been able to secure an adjustment of such cases by prosecuting the complaints to the superior authorities at that port, and efforts looking toward the same end were made by that officer in each of the cases referred to. He was met, however, with the announcement that under an existing ordinance, the strict observance of which has been re-enjoined by a royal order recently promulgated in

Cuba, the local authorities can no longer deal with such questions, but that they must be remitted for settlement to the government at Madrid. The adoption of this course of procedure by Spain has very much aggravated this general grievance to American commerce. Complaints of such instances have of late become so frequent from owners and masters of American vessels that the question demands the most serious attention of this government. The President therefore directs me to instruct you to bring the question to the attention of his Catholic Majesty's government and in doing so you will request that authority shall be given, either to the captain-general in Cuba or to his majesty's minister at this capital, to consider such cases and grant redress when necessary. The arbitrary conduct of subordinate officials in Cuba cannot be submitted to without retaliation on Spanish vessels and commerce, unless there is secured a more speedy remedy than is afforded by resort to Madrid.

I am, &c.,

FRED'K T. FRELINGHUYSEN.

No. 278.

Mr. Reed to Mr. Frelinghuysen.

No. 120.] LEGATION OF THE UNITED STATES,
Madrid, March 20, 1882. (Received April 11.)

SIR: Referring to your instruction No. 33, relating to the general question of fines imposed on American vessels in Cuban and other Spanish colonial ports, and instructing the legation to request that authority be given to either the captain-general of the island of Cuba or to the Spanish minister in Washington to consider such cases and give redress, I beg to inclose herewith a copy of my note upon the subject to the minister of state, dated the 13th instant. Up to the present time I have received no reply.

I have, &c.,

DWIGHT T. REED.

[Inclosure in No. 120.]

Mr. Reed to the Marquis de la Vega de Armijo.

LEGATION OF THE UNITED STATES,
Madrid, March 13, 1882.

EXCELLENCY: I have lately, under instructions from the Secretary of State of the United States, had occasion to address your excellency in regard to certain fees imposed in Cuban ports on the American vessels George W. Chase, Ellie Knight, and the Santiago. Heretofore the consul-general of the United States at Havana has generally been able to secure an adjustment of such cases on presentation of the facts to the superior authorities at that port, and he endeavored to do so in each one of the cases above mentioned, but was informed that under an existing ordinance, the strict observance of which has been re-enjoined by a royal order recently promulgated in Cuba, the local authorities can no longer deal with such questions, but that they must be remitted to the government at Madrid for settlement.

The adoption of this course of procedure by His Catholic Majesty's government has very much aggravated the general grievance to American commerce with the island of Cuba. Indeed, the complaints of owners and masters of American vessels against this new grievance have been so numerous that my government has been obliged to give the subject its most serious attention, and, after due consideration, it has been compelled to recognize the justice of those complaints.

It is hardly necessary for me to point out to your excellency the inconvenience to which the owners or captains are subjected in the event of their vessels being fined

(as in the cases of the George W. Chase, Ellie Knight, and Santiago, above referred to) in consequence of the royal order above mentioned. They are not only obliged to deposit the amount of the fine, but are also compelled to await the decision of the authorities here as to whether or not it (the fine) has been justly imposed, and as the distance between Cuba and Madrid is so great, the time occupied in transmitting the facts of the case here and arriving at a decision must necessarily be long. Meanwhile the owners of the vessels or the captains are kept out of their money, and, as the sums so withheld are often quite large, it is only natural that they should make complaints to the government at Washington.

In view of these complaints, and of the frequency with which American vessels have of late been victims to the arbitrary conduct of subordinate customs officials in Cuba, the President, after having given the subject his most serious consideration, has directed the Secretary of State to instruct this legation to invite, through your excellency, the attention of the government of His Catholic Majesty to the matter, and in so doing to request that, as a proper means of doing away with such complaints in the future, as well as to counteract any arbitrary proceedings of the customs officials, authority may be given either to the captain-general of the island of Cuba or to His Catholic Majesty's envoy extraordinary and minister plenipotentiary at Washington to consider cases of fines imposed on American vessels in Cuban or in other Spanish colonial ports, and to grant redress when the facts of the case shall so warrant.

I have, therefore, the honor to bring the subject to your excellency's attention, not doubting that, in view of the importance attached to it by my government, the wishes of the President, as above expressed, will be most willingly and speedily complied with on the part of His Catholic Majesty's government.

I gladly avail myself, &c.,

DWIGHT T. REED.

No. 279.

Mr. Reed to Mr. Frelinghuysen.

No. 121.] LEGATION OF THE UNITED STATES,
Madrid, March 20, 1882. (Received April 11, 1882.)

SIR: Referring to Mr. Hamlin's No. 10, and to your instructions Nos. 24, 28, and 30, relating to the exaction, by Spanish consuls in the United States, of ten cents per ton on the cargo of vessels clearing for Spanish ports, I now have the honor to inclose for your information, a copy of a futher note upon the subject, addressed by me to the minister of state, dated the 17th ultimo.

In this connection, I deem it proper to state that a few days after sending the above note I had occasion to see Mr. Mendez de Vigo (the minister of state being absent) in regard to another matter, and in the course of conversation the question of this charge came up. As no reply had been received to either Mr. Hamlin's or to my note, I thought the occasion a proper one to express to him verbally the importance attached to the subject by the Government of the United States and to request an early reply. This I did, and Mr. Mendez de Vigo replied that he had already had two or three conversations with the minister of hacienda in regard to the matter, but as it was a grave question they had not been able to come to any decision, adding that it was still under consideration, and that the result when reached would at once be communicated to me.

This conversation took place about a month ago. I have not communicated it to you or transmitted a copy of my note, for the reason that I have been expecting from day to day to receive the reply of the minister of state, but as the reply does not seem to come, I have thought best to now report the conversation, and to transmit a copy of my note above referred to.

I have the honor, &c.,

DWIGHT T. REED.

[Inclosure in No. 121.]

Mr. Reed to the Marquis de la Vega de Armijo.

LEGATION OF THE UNITED STATES.
Madrid, February 17, 1882.

EXCELLENCY: Referring to Mr. Hamlin's note of the 7th ultimo, relating to the charge made by Spanish consuls in the ports of the United States of ten cents per ton on the cargoes of vessels clearing for Spanish ports, I have now the honor to inform your excellency that since the above note was written, the legation has received from the Department of State, at Washington, copies of communications addressed to that Department by the Marine Association of New York, and by the merchants and shipowners of Baltimore and Boston, strongly protesting against said charge.

I have the honor to communicate the above to your excellency in connection with Mr. Hamlin's note of the 7th ultimo, and in view of the great importance attached to the subject by my government, your excellency will permit me to recall your attention to the above-mentioned note, and to express the hope that such steps may be taken as will lead to the discontinuance of the charge in question.

I gladly avail myself of this occasion, &c., &c.

DWIGHT T. REED.

No. 280.

Mr. Frelinghuysen to Mr. Reed.

No. 48.] DEPARTMENT OF STATE,
Washington, March 27, 1882.

SIR: I inclose a copy of a letter from Mr. Henry Beste, of New York, and of the protest dated the 20th instant, made by him against the payment of an impost exacted by the Spanish consul at New York, on the cargo shipped by him on the American schooner Clara Fletcher, L. I Sargent, master, bound for Arroyos, Porto Rico, of ten cents for each and every 1,000 kilograms weight of said cargo, amounting to $17.10. The legation will make use of this case, in connection with the other similar ones it has in charge, according to its best judgment.

I am, &c.,

FRED'K T. FRELINGHUYSEN.

[Inclosure in No. 48.]

Mr. Beste to Mr. Hunter.

NEW YORK, *March* 20, 1882.

SIR: I had this honor, January 31 of this year, and should have said on 1st page, 6th line, "for every one thousand kilos," instead of "for every kilo," which I herewith correct.

Having been subjected to the same impost therein referred to, but on cargo shipped per American schooner Clara Fletcher, and from New York, I have had served upon the Spanish consul my protest, and ordered a copy to be forwarded to your good self.

I may state here that an analogous case would be the instruction from the Department of State of these United States to their consuls at Cuba and Porto Rico "to impose and collect a tax of ten cents for every two thousand pounds of sugar or other products, including the packages in which packed, exported from those islands, shipped to and cleared for a port in these United States."

I am, &c.,

HENRY BESTE.

[Appendix to inclosure.]

To whom it may concern:

I hereby protest against the payment of an import exacted by the Spanish consul at New York on the cargo consisting of goods the product of these United States, shipped by me on board the American schooner Clara Fletcher, L. I. Sargent master,

bound for Arroyo, Porto Rico, of ten cents for each and every one thousand kilograms weight of said cargo, amounting to seventeen dollars and ten cents, and paid under compulsion, on the ground that no foreign consul has the right to levy and collect a tax on goods shipped from these United States of North America to the country or colony under the government he represents, and being also liable to loss from peril of the seas before arrival at destination.

[SEAL.] HENRY BESTE.

Done and protested at the city of New York, in the county and State of New York, this twentieth day of March, A. D. 1882, before me. In testimony whereof, as well the said Henry Beste as I, Edwin F. Corey, a notary public in and for the State of New York, by letters patent under the great seal of State, duly commissioned and sworn, have hereunto subscribed these presents, and I have caused my official seal to be hereunto affixed.

[SEAL.] EDWIN F. COREY,
Notary Public.

CITY AND COUNTY OF NEW YORK, *ss:*

I, Edwin F. Corey, a public notary duly commissioned and sworn, and dwelling in the city of New York, do certify the foregoing to be a true and exact copy of an original protest on record in my office.

Witness my hand and official seal this twentieth day of March, A. D. 1882.

[SEAL.] EDWIN F. COREY,
Notary Public, 54 Wall street, New York.

No. 281.

Mr. Frelinghuysen to Mr. Reed.

No. 49.] DEPARTMENT OF STATE,
Washington, March 27, 1882.

SIR: I inclose a copy of a memorial addressed to the Hon. Charles W. Jones, Senator from Florida, by Messrs. Fogarty and Johnson, of Key West, concerning an order of the Governor-General of Cuba, imposing a duty of $\frac{75}{1000}$ of an escudo on each kilogram of live fish imported into that island in foreign bottoms from and after April 1 next; also, of other papers therewith. The representations of the memorial, showing the commercial reasons why such a tax should not be required, will commend themselves, it is thought, to the consideration of His Majesty's Government, and it is left to the legation to present the matter according to its best judgment, to the end the discriminating tax may be removed.

I am, &c.,

FRED'K T. FRELINGHUYSEN.

[Inclosure 1 in No. 49.]

Messrs. Fogarty and Johnson to Mr. Jones.

KEY WEST, FLA., *February* 28, 1882.

SIR: Feeling the deep interest you take in the welfare and protection of every citizen of Florida, we take the liberty of inclosing a memorial to the Hon. F. T. Frelinghuysen, Secretary of State, and very earnestly request that you will present the same in person, and use your kind offices in furthering the purposes of said memorial.

The Spanish smacks owned by Antonio Quintana Lopez, whose name appears in the memorial, take nothing but foreign fish caught on the coast of Mexico, but these Spanish smacks, in leaving Havana, do not clear for Mexico, but simply clear coastwise for Cape San Antonio, so as to make it appear that their cargoes are caught on the coast of Cuba, when in reality they do not catch a solitary fish on the Cuba coast. They do this for the purpose of avoiding tonnage dues, as Spanish vessels coasting pay very light dues, and this order, now about to be enforced, imposing nearly one and three-quarter cents per pound duty on live fish, in addition to the enormous port

charges already charged American smacks or fishing vessels, is due solely in the interest of Antonio Quintana Lopez and his associates, who wish to monopolize the fish business at the ports of Cuba, and promises to ruin a business for us at this port that has existed for forty-five years, employing from sixteen to twenty-five vessels, ranging from thirty-two to forty-eight tons each, and about one hundred and fifty men on an average.

For what purpose is this tax to be imposed? Surely not for the benefit of the Spanish Government, as it will compel the American smacks to keep away from Havana, thereby not only losing the proposed duty, but also losing large sums in port charges that are now being paid daily, we might say, to the Spanish Government by our smacks, and it would also increase the price of fish to an enormous figure in the Havana markets, as most of the fish consumed there are caught on our coast by our vessels; and if we are driven off by high duties and tonnage dues it will leave their markets in the hands of monopolists, thereby placing the price of fish so high as to be beyond the reach of the poorer classes of their people, and it is their principal article of food. And we think if you will kindly act with the honorable Secretary of State, in calling this matter to the attention of the Spanish minister at Washington, he will have it corrected by his home government. And, on the other hand, if the Spanish Government can insist on their proposed course, it will ruin the fishing business at this port, which, we assure you, is no small item, and would cripple the industry of this port very much.

The crews of our fishing vessels are composed principally of former Spanish subjects (natives of the Canary Islands), and many of them still claim allegiance to the crown of Spain. These men exist solely by fishing on our coast in our own vessels, and not infrequently visit their friends in the Canary Islands, and carry with them the money earned while engaged on our coast, which contributes not a little to the support of their families. You will doubtless observe that our memorial is not only signed by persons engaged in the fishing business, but by every business man on our island, showing it to be a matter of interest to all.

Thanking you in advance for the support we are sure to receive from you, we are,

Respectfully yours,

FOGARTY & JOHNSON.

[Inclosure 2 in No. 49.—Memorial.]

To the honorable Frederick T. Frelinghuysen, Secretary of State:

Your memorialists, American citizens resident in Key West, Fla., and owners, masters, and mariners of American vessels engaged in catching live fish for the Havana market, would respectfully represent:

That the business in which they are engaged is one which has been carried on for over forty-five years, during which time live fish have been admitted into the port of Havana free of duty.

That there are also a number of Spanish fishing-smacks engaged in catching live fish for the same market, which catch their fish on the Mexican coast, and in other than Cuban waters.

That several of these Spanish smacks are owned by Don Antonio Q. Lopez, whose name appears hereinafter.

That the Governor-General of Cuba has, by an order published in Le Voz de Cuba, of the issue of February 18, 1882, published at Havana, Cuba, a translation of which order is hereto annexed, directed, "That from and after the first day of April proximo live fish imported into the Island of Cuba in foreign bottoms shall pay a duty of $\frac{7\frac{1}{2}}{1000}$ of an escudo on each kilogram."

That this rate is equal to $1.72½ on each quintal of one hundred pounds.

That this demand is not a duty upon the importation of a foreign product, but is a discrimination against American vessels carrying into Cuba an article which is not the product of any country, and is in the direct interest of Spanish vessel owners engaged in the business of catching live fish.

Wherefore your memorialists beseech your attention to the premises, and your offices to afford us such relief as may be obtained by the abrogation, rescinding, or amending said order, or as may be in your power to afford.

Your memorialists would also represent that while Spanish vessels entering United States ports are only required to pay a tonnage fee of thirty cents per ton, and that only once for the term of one year, American smacks and vessels entering Havana are compelled to pay tonnage dues of about $1.30 per ton, and this every time they enter the port, which will average for the said smacks twelve trips a year; and thus American vessels entering Havana are compelled to pay tonnage dues over four times as large as Spanish vessels pay upon entering American ports, and the aforesaid smacks during one year pay forty-eight times as much as similar Spanish vessels would pay entering American ports the same number of times.

That, in addition to the above tonnage dues, our vessels are compelled to pay other port charges in Havana, amounting to from $32 to $40 in gold, each and every trip made, as will appear from copies of itemized expenses hereto attached.

All of which appears to your memorialists as contrary to the commercial agreements between the United States and Spain, and deserving relief, which your honor is prayed to obtain in their behalf.

[Translation of order of February 18, 1882.]

His excellency the Governor-General, in compliance with the notice contained in the royal order of the 22d of November, 1880, occasioned by representations incited by Don Antonio Quintana Lopez, respecting the importation of live fish in foreign bottoms, and in accordance with the judgment of the Royal Commission on the tariff, at a meeting held on the 30th day of November last, has been pleased to order:

That from and after the first day of April proximo live fish imported into the Island of Cuba in foreign bottoms shall pay a duty of $\frac{75}{1000}$ of an escudo on each kilogram.

(This order is published in Le Voz de Cuba, of the 18th of February, 1882, published in Havana.)

American schooner Relief to Manuel Suarez, Dr.

Tonnage dues	$42 15
Dispatching from custom-house	16 00
Pilotage	9 34
Interpreter	4 00
Consul's fee	2 20
Copying manifest in Spanish	3 00
Commission	7 00
In gold	$83 69

HAVANA, *November* 19, 1881.

MANUEL SUAREZ,
Consignee.

The above-named vessel is only 32.43 American tons, pays the above amount every trip to any port in Cuba, and makes about twelve trips per annum.

FOGARTY & JOHNSON,
Owners.

KEY WEST, FLA., *February* 21, 1882.

American schooner Cuba to Manuel Suarez, Dr.

Tonnage dues	$58 35
Dispatching from custom-house	16 00
Pilotage	9 34
Interpreter	4 00
Consul's fees	2 20
Making copy of manifest in Spanish	3 00
Commission	7 00
In gold	$99 89

HAVANA, *November* 22, 1881.

MANUEL SUAREZ,
Consignee.

The above-named vessel is only 44.89 American tons, and pays the above amount every trip.

FOGARTY & JOHNSON,
Owners.

KEY WEST, FLA., *February* 21, 1882.

American schooner Riverside to Manuel Suarez, Dr.

Tonnage dues	$60 25
Dispatching from custom-house	16 00
Pilotage	9 34
Interpreter	4 00
Consul's fee	7 10
Making manifest in Spanish	2 50
Commission	7 00
In gold	$106 19

HAVANA, *July* 23, 1881.

MANUEL SUAREZ,
Consignee.

The above-named vessel is 46.26 American tons, and pays the above amount of expense every trip to Havana, and makes about twelve trips a year.

FOGARTY & JOHNSON,
Agents.

KEY WEST, FLA., *February* 21, 1882.

Fogarty and Johnson, owners of schooners Relief and Cuba, and agents for schooner Riverside, Samuel Filer, schooner Ellen E. Filer, and one hundred and twelve other merchants.

No. 282.

Mr. Frelinghuysen to Mr. Hamlin.

No. 55.] DEPARTMENT OF STATE,
Washington, April 12, 1882.

SIR: I have to acknowledge the receipt of Mr. Reed's dispatch No. 121, of the 20th ultimo, relating to charges made by Spanish consuls in the United States on the cargo of vessels clearing for Spanish ports, and reporting a conversation had by him on the subject with the sub-secretary of state.

In reply I would suggest a further conversation on this question with the minister or sub-secretary.

I am, &c.,

FRED'K T. FRELINGHUYSEN.

No. 283.

Mr. Frelinghuysen to Mr. Hamlin.

No. 56.] DEPARTMENT OF STATE,
Washington, April 21, 1882.

SIR: With reference to previous instructions sent you on the subject of the collection by Spanish consuls residing within the territory of the United States of certain fees on the bulk of cargoes of goods and wares shipped from this country to Spanish ports, I herewith transmit, for your further information and for action similar to that which you shall have taken in like cases, copies of a letter and of a protest received from Henry Beste, of New York, concerning fees collected of him by the Spanish consul at that port on the cargoes of the brig Zebenia and the schooner Ida A. Payne, shipped from New York to Porto Rico.

I also inclose herewith copy of a letter from Mr. Beste to Mr. Hunter, on the same subject, which, though dated the 31st of January last, was not received here till the 17th instant.

I am, &c.,

FRED'K T. FRELINGHUYSEN.

[Inclosure 1 in No 56.]

Mr. Beste to Mr. Hunter.

NEW YORK, *April* 14, 1882.

SIR: In addition to the impost already paid to the Spanish consul, which I had the honor of bringing to your knowledge, I have recently paid again those of $21 on a cargo shipped from this port per brig Zebenia to Arroyo, Porto Rico, and $13.50 on a

cargo shipped from this port, per American schooner Ida A. Payne, to Mayaguez, Porto Rico. I have had served upon the Spanish consul my protest, and ordered a copy to be forwarded to your good self.

I may state here that an analogous case would be the instruction from the Department of State of these United States to their consuls at Cuba and Porto Rico "to impose and collect a tax of ten cents for every 2,000 pounds of sugar, or other products, including the packages in which packed, exported from those islands and shipped to and cleared for a port in these United States."

I am, &c.,

HENRY BESTE.

[Appendix to inclosure 1.]

To whom it may concern:

I hereby protest against the payment of an impost exacted by the Spanish consul at New York on the cargo consisting of goods, the product of these United States of America, shipped by me on board the British brig Zebenia, J. E. Merriam, master, bound for Arroyo, Puerto Rico, of ten cents for each and every 1,000 kilograms weight of said cargo, amounting to $21, and paid under compulsion on the ground that no foreign consul has the right to levy and collect a tax on goods shipped from the United States of America to the country or a colony under the government he represents, and being also liable to loss from peril of the seas before arrival at their destination.

HENRY BESTE. [SEAL.]

Done and protested at the city of New York, in the county and State of New York, this 14th day of April, A. D. 1882, before me.

In testimony whereof as well the said Henry Beste as I, Edwin F. Corey, a notary public in and for the State of New York, by letters patent under the great seal of State, duly commissioned and sworn, have hereunto subscribed these presents, and I have caused my official seal to be hereunto affixed.

[SEAL.] EDWIN F. COREY,
Notary Public.

STATE OF NEW YORK,
City and County of New York, ss:

I, Edwin F. Corey, a public notary, duly commissioned and sworn, do certify the foregoing to be a true and exact copy of an original protest on record in my office.

Witness my hand and official seal this 14th day of April, A. D. 1882.

[SEAL.] EDWIN F. COREY,
Notary Public, 54 Wall Street, New York.

[Inclosure 2 in No. 56]

Mr. Beste to Mr. Hunter.

NEW YORK, *January* 31, 1882.

SIR: I beg to inform the honorable Department that I have been compelled to pay to the vice-consul of Spain at Machias, Me., a Mr. I. Sargent, a fee or, better said, an "impost" of ten cents for every kilo (about 2 pounds) on the weight of a cargo white pine lumber bought and shipped for my account, on board the American (United States) schooner Helen I. Holway, ——— Thompson, master, at Machias, Me., and bound for Arroyo, Puerto Rico, a Spanish colony, an act which I consider not only unjust, but also against international laws, for reason that a consul holding an exequatur from his government cannot levy and collect a tax on goods of American production and growth, and shipped in American bottoms from this country, before they have been landed in a Spanish port, on the road to which they may perish.

Furthermore, the consul is exempt from taxation, although his office is made one of "gain and profit" to his government.

If authorized by his government, it becomes more irksome, this impost, in the face of the great consideration granted by the authorities of these United States in allowing goods being shipped and laden on board of vessels under the Spanish flag without imposing the differential duty, enjoyed in the home country, formerly collected here, and which law, I have been given to understand, has not been repealed.

I remain, &c.,

HENRY BESTE.

No. 284.

Mr. Hamlin to Mr. Frelinghuysen.

No. 38.] LEGATION OF THE UNITED STATES,
Madrid, May 16, 1882. (Received June 5.)

SIR: Referring to your instruction No. 49, relating to the order of the governor-general of the Island of Cuba, imposing on and after the 1st April of this year a duty on live fish imported into the island in foreign bottoms, I have now the honor to inclose herewith for your information a copy of a note addressed by me on the 29th ultimo to the minister of state on the subject.

No reply to my note has as yet been received.

I have, &c.,

HANNIBAL HAMLIN.

[Inclosure in No. 38.]

Mr. Hamlin to the Marquis de la Vega de Armijo.

LEGATION OF THE UNITED STATES,
Madrid, April 29, 1882.

EXCELLENCY: The attention of the Department of State, at Washington, has lately been invited to an order issued by the governor-general of the Island of Cuba, on the 18th February last, imposing on and after the 1st April, 1882, a duty on live fish imported into that island in foreign bottoms.

The order, as published in the La Voz de Cuba, of the 18th February last, reads as follows:

"His excellency the governor-general, in compliance with the notice contained in the royal order of the 22d of November, 1880, occasioned by representations incited by Don Antonio Quintana Lopez, respecting the importation of live fish in foreign bottoms, and in accordance with the judgment of the royal commission on the tariff, at a meeting held on the 30th day of November last, has been pleased to order:

"That from and after the 1st day of April promixo, live fish imported into the Island of Cuba, in foreign bottoms, shall pay a duty of $\frac{75}{100}$ of an escudo on each kilogram."

According to a memorial addressed to the Department of State by merchants at Key West, Fla., engaged in catching fish (as well as merchants of that place engaged in other business), and carrying them to the Cuban markets, no duties have heretofore been levied upon the same in Cuban ports, whether brought in Spanish or foreign bottoms.

While it is not the intention or wish of my government to interfere in the least possible manner with the internal affairs of Spain, or of those of her colonies, the facts represented in the above-mentioned memorial, against the propriety or advisability of now imposing a duty on that important article of food in the Island of Cuba, when brought in foreign bottoms, seem to be so clear and so contrary to the real interests of that island, that I am instructed to present to His Catholic Majesty's Government the following facts for its consideration: First, the order will be contrary to the financial interests of the island, because it will be the means of taking away from it a source of revenue in the way of tonnage dues and port charges, as its enforcement will prevent all foreign ships from continuing in the trade of catching and carrying live fish to the Cuban markets.

That this would cause no small loss of revenue is clearly shown by the fact that there have always been from sixteen to twenty-five vessels, ranging from 32 to 46 tons, employed in carrying live fish to that market in American bottoms alone, and making, on an average, twelve trips every year. Each and every one of these vessels is obliged to pay tonnage dues and port charges every time it enters port, and as a sample of the amount paid by said vessels, I beg to present that of the American schooner Relief, of only 32.43 tons, which pays as follows:

Tonnage dues	$42 15
Dispatching from custom-house	16 00
Pilotage	9 34
Interpreter	4 00
Consul's fee	2 20
Copying manifest in Spanish	3 00
Commission	7 00
Total, gold	$83 69

Of the above sum at least $58.15 (the amount of tonnage dues and custom-house charges) is Spanish revenue, and taking into consideration the fact that the vessel in question makes twelve trips per year, she alone pays into Spanish treasury of Cuba, every year, the sum of $697.80 in gold. As already stated, there are employed from sixteen to twenty-five vessels, ranging from 32 to 46 tons each, and each one of which averages twelve trips per year, and as a vessel pays tonnage dues on her number of tons each trip, the revenue received from that source amounts to a large sum. That revenue, as well as that received from other foreign vessels, will be lost, if the order of the captain-general of Cuba is continued in force, as no foreign vessel can afford to pay a duty of $1.72 on every quintal (of 100 pounds) of fish imported into the island, in addition to the tonnage dues and port charges, and compete with Spanish vessels that are still allowed to enter their fish free of duty. It is alleged that said duty amounts to actual prohibition.

Secondly, and not the least important matter for consideration, is the fact that by the discriminating duty above referred to Mr. Antonio Quintana Lopez, a Spanish subject, and who is also engaged in supplying the Cuban markets with fish (and who, as it would seem, has been instrumental in causing the order of the captain-general to be issued), and his associates, would, by the withdrawal of foreign fishing vessels, soon obtain a monopoly of those markets, thus causing a great increase in the price of fish, if not placing that very important article of food beyond the reach of the poor class of people in the island.

The above statement seems to show very clearly, first, that the enforcement of the order of the captain-general will be the means not only of taking away every year a large revenue from the Cuban treasury, but, second, it will also tend to place the Cuban fish markets in the hands of monopolists and thus cause a large increase in the price of fish. While, as I have already stated to your excellency, it is not the intention or wish of my government to interfere in the internal affairs of His Catholic Majesty's Government, or in those of His Catholic Majesty's colonies, I have been instructed to present the above statement for its consideration, and should His Catholic Majesty's Government deem it wise and best to revoke the order of the captain-general above referred to, such action would be received with pleasure by the Government of the United States.

I avail myself, &c.,

HANNIBAL HAMLIN.

No. 285.

Mr. Hamlin to Mr. Frelinghuysen.

No. 41.] LEGATION OF THE UNITED STATES,
Madrid, May 16, 1882. (Received June 5.)

SIR: In compliance with the suggestion contained in your instruction No. 55, in relation to charges made by Spanish consuls in the United States on cargoes of vessels clearing for Spanish ports, I sought an interview with the minister of state on the 10th instant, but found his office closed. The attempt was renewed on the succeeding day without accomplishing the object. I then sought and obtained an interview with the sub-secretary, Mr. Mendez de Vigo.

I stated to him that no reply had been made to the note which I had the honor to address to the minister of state on the 7th January last, relating to charges made by Spanish consuls in the United States on the cargoes of vessels clearing for Spanish ports; and I added that since the date of my note I had received several dispatches from my government advising me that the Spanish consuls in the United States were continuing to impose said charges complained of, and that my government had instructed me to confer with the ministry of state with a view to a prompt and early settlement of the pending subject. I stated as impressively as I was capable of doing that my government regarded the imposition of said charges as wrong in and of themselves and embarrassing to the commerce between the two countries, and that they were deemed inadmissible by my government as being in substance and in fact a tonnage duty amounting to a revenue measure en-

forced in American ports, and that no government could assume to exercise that power but the Government of the United States. I also invited the attention of the sub-secretary to the correspondence of the two governments which took place when Mr. Cushing was the United States minister at this court (referred to in my note of the 7th January), involving very nearly, if not actually, the same point now under discussion. Such briefly, but substantially, was the manner in which I stated my views of the case to the sub-secretary, and expressed the hope that there would be as little delay as possible in the disposition and settlement of the subject-matter under consideration. The reply of the sub-secretary was, first, that said consular charges were made alike upon the cargoes of vessels in the ports of all nations, and that the Government of of the United States was the only one that had complained of the same; second, that they were considering the case with a view to determine the same, but that the person having the matter in charge was temporarily absent, but in a few days a reply to my note would be sent me. I then said to the sub-secretary that without any instructions from my government I would inquire of him if all the trouble and annoyance arising in the consular service could not be wholly avoided, or very nearly so, if the two governments would make an agreement by which the consular fees should be alike, or reciprocal by each government? If he should be disposed to favor such a course and would address me a note to that effect, I would submit the same to my government.

At first the suggestion seemed to impress the sub-secretary very favorably and he expressed the opinion that it was a desirable thing to do. But after talking further upon the subject, he said that it could not be done, as the consular systems of the two governments were based on different principles, that the American consular system was not regarded as one of revenue, while it was otherwise with Spain; that Spain relied largely upon its consular system as one of revenue, and it was administered upon that principle, and Spain did, in fact, realize a considerable sum from that service.

To that I promptly replied, precisely, and that sustains just the view entertained by my government, that the charge upon cargoes of vessels was a tonnage and revenue measure, and as such my government protested against it as inadmissible. I then said to the sub-secretary, supposing that my government should instruct its consular officers in Cuba and Porto Rico to impose a like charge upon every pound of sugar and every gallon of molasses sent to the United States, what would the Spanish Government say? He replied by asking why my government did not do so? I responded, first, that such a course, if admissible, would only provoke controversy, and would substantially embarrass the commercial relations of both countries, while everything that could properly be done should be done to facilitate and increase that commerce, and that I would be happy if I could in any way aid in so desirable a result. And, I added, secondly, that such a course was wholly inadmissible. That no nation could allow any foreign government to collect fees on the cargoes of vessels in its own ports equivalent to tonnage or revenue duties, and if attempted would certainly prove disastrous in its result. The sub-secretary made no reply.

It is now more than a week since said conference took place, and having as yet received no reply to my note of January 7, I have deemed it proper to advise you of said interview. When a reply shall be received to my note it will be promptly forwarded.

I have, &c.,

HANNIBAL HAMLIN.

No. 286.

Mr. Hamlin to Mr. Frelinghuysen.

No. 51.] LEGATION OF THE UNITED STATES,
Madrid, May 29, 1882. (Received June 13.)

SIR: Referring to your instruction, No 33, and to Mr. Reed's No. 120, I now beg to refer you, as the reply of the Spanish Government to the request that the governor-general of Cuba or the minister of Spain at Washington, be authorized to decide questions arising out of the imposition of fines on American vessels in Cuban and other Spanish colonial ports, to the note of the 24th instant of the minister of state, a copy and translation of which accompanied my dispatch No. 50 of to-day's date.

It will be perceived that for the reasons therein given the Spanish Government is unable to comply with the request of the United States in the matter.

I have, &c.,

HANNIBAL HAMLIN.

[Inclosure referred to in No. 51.—Translation.]

The Marquis de la Vega de Armijo to Mr. Hamlin.

MINISTRY OF STATE,
Palace, May 24, 1882.

EXCELLENCY: I have had the honor to receive the note which your excellency was pleased to address me, dated 8th instant, relating to the incident which occurred to the American ship Ellie Knight, and in which your excellency states that a certain discrepancy appears to exist between the declaration made by the ministry of ultramar and the direction-general of hacienda of Havana.

The consul of the United States at that place says that, on applying to the direction-general of hacienda of Havana, as the charges imposed on the master of the Ellie Knight appeared to him (the consul) rather unreasonable and unjust, learned that in consequence of a royal order recently promulgated in Cuba, the director-general of hacienda was no longer authorized to determine questions of that kind.

I infer that a mistake has been made or that a misunderstanding exists.

The minister of ultramar declares, according to the statement I had the honor to make to your excellency in my note of 3d, that these cases must be decided by the direction-general of hacienda of Havana, and in support of this declaration he sends the inclosed copy of the general customs regulations in force in the Island of Cuba, in which, title 4th, chapter 3d, your excellency will see all the particulars of the administrative procedure for the imposition of fines.

The administrators impose the fine when there is a just cause for it, and if the party concerned does not conform itself thereto, and may appeal in accordance with the provisions in force, he makes the appeal to the direction-general of hacienda, which definitely determines such questions, although the "contencioso administrativo" remains as a last course.

If it were intended to remit the fines imposed or to modify in any way the procedure, which is perhaps what the consul of the United States at Havana refers, then the decision of such cases belongs to the government of Madrid. The customs legislation in the provinces of ultramar being alike applied to the native born and to foreigners, His Majesty's Government is unable to delegate, through any authority or representative, the power to remit the penalties imposed for infringements of the customs and tariff regulations, as it can alone appreciate the circumstances which may advise the exercise of grace. Thus I have answered at the same time the note of your excellency of 13th (March), in which you requested that the captain-general of Cuba or the representative of Spain at Washington be authorized to deal with such cases of fines which might arise in the Spanish colonies, and to remit them when the facts should so justify.

I flatter myself that these explanations will be sufficient to convince your excellency that both in the case of the Ellie Knight as in other analogous ones, the Spanish administration has justly and strictly adhered to the regulations in force, it being a matter of regret that through the heedlessness or carelessness of the masters of vessels cases of this kind are of so frequent occurrence.

I avail myself, &c.,

The Marques DE LA VEGA DE ARMIJO.

No. 287.

Mr. Hamlin to Mr. Frelinghuysen.

No. 52.] LEGATION OF THE UNITED STATES,
Madrid, June 6, 1882. (Received June 26.)

SIR: Referring to previous dispatches, and particularly to my No. 41, relating to the charge made by Spanish consuls in ports of the United States of ten cents per ton on the cargoes of vessels clearing for Spanish ports, I now have the honor to inclose herewith, for your further information, a copy of a note upon the subject, dated the 29th ultimo, from the minister of state. It will be observed that the note of the minister of state does not answer the question at issue. It merely states that the charge which has been in force since 1874, in so far as vessels clearing for the ports of the peninsula are concerned, is now being exacted, in accordance with article 53 of the tariff, of vessels clearing for the Spanish provincial ports, and that as the matter treats of the receipts of the public treasury, no modification in regard thereto can be made without being previously sanctioned by law.

It is presumed that this charge upon the cargoes of American vessels clearing for peninsular ports may have been made, as stated, by his excellency, but the commerce directly with Spain has been so limited that it escaped attention, admitting the fact to be as stated. But now, when the attention of the Spanish Government is called to what is the character of this consular fee, and that it is in substance a tonnage duty, and equivalent to a revenue measure, its reply is that it is now applying the same rules in its provinces that have been in force in Spain since 1874. That surely is not an answer to the point in issue. The exorbitant consular fees complained of in 1876 were abolished by law. It would seem that a just solution of the present difficulty should be made in the same manner.

I await such further instructions as you shall be pleased to give me.

I inclose herewith also a copy of my note to his excellency the minister of state, acknowledging the receipt of his note to me of the 29th ultimo.

I have, &c.,

HANNIBAL HAMLIN.

[Inclosure 1 in No. 52.—Translation.]

The Marquis de la Vega de Armijo to Mr. Hamlin.

MINISTRY OF STATE,
Madrid, May 29, 1882.

SIR: I have had the honor to receive the notes which your excellency was pleased to address me, dated January 7, and February 17, ultimo, in which, in consequence of instructions from your government, and on the application of some American merchant houses, you protest against the measures adopted in the Spanish consulates established in the United States, exacting, after the 31st October ultimo, from vessels sailing for the provinces of ultramar, the same consular duties as those levied upon vessels clearing for the ports of the peninsula.

In support of said claim your excellency refers to what took place in the year 1876, when the duties mentioned in articles 48, 49, 50, and 51 of said tariff were abolished; but I must inform you that that suppression was adopted in accordance with article 16 of the law of budgets [presupuestos] of 2d July, 1876, because, it treating of a sum covered into the treasury, the government of the King, my august sovereign, did not find itself authorized to adopt resolutions of that nature without the previous authorization of Congress.

In the place of said articles it was established that for the examination of each invoice which the shippers must deliver to be included in the manifest which the captains at the port of destination present in the administration of customs, they will

pay 25 or 50 centimes, according to the port from whence they come, for each ton of 1,000 kilograms or a fraction of a ton, which charge has been paid since said year of 1876 without giving rise to any claim from foreign governments.

This charge, which in either the one or other form mentioned, has been in force since the year 1874 without any interruption, has not applied to the navigation in the provinces of ultramar, because article 52 of the tariff fixed the duty which must be paid to countersign the documents exhibiting the cargo of the vessel (sobordo) which was the special document demanded by the regulations of said provinces for the clearance of the merchandise; but it was provided by article 53 that if, in consequence of a reform in the system of carrying out the same ("fiscalizacion en ellas"), the charge by consuls for countersigning the documents exhibiting the cargo of the vessel (sobordos), should be no longer exacted, foreign and Spanish vessels shall then be subject to the regulations established for the ports of Spain. This case occurred when the ministry of ultramar published the customs and tariff regulations for the Islands of Cuba and Porto Rico, in which the documents exhibiting the cargo of the vessel (sobordos) are abolished, and provided that the manifests presented shall be made out in the same manner as those for the peninsula.

Your excellency will observe, therefore, that the question at issue is not a new tax, but only one already anticipated in the regulations establishing a perfect equality in regard to the payment of duties for all merchandise imported into Spain and its provinces of ultramar. I must further say that Spanish vessels are not only subject to its payment, but that they also have to pay an additional tonnage duty from which foreign vessels are exempt; and if Spain should reform its regulations increasing, for instance, the charge for countersigning invoices, as other nations do, it is obvious that commerce would have to pay more than it pays at the present time. In view of these reasons I flatter myself that your excellency will see that I am unable to accede to your desire, the more so as the modification in the collection of all taxes which form part of the receipts of the public treasury, cannot be attempted without having been previously sanctioned by law.

I avail myself, &c.,

The Marquis DE LA VEGA DE ARMIJO.

[Inclosure 2 in No. 52.]

Mr. Hamlin to the Marquis de la Vega de Armijo.

LEGATION OF THE UNITED STATES,
Madrid, June 6, 1882.

EXCELLENCY: I have the honor to acknowledge the reception of the note which your excellency was good enough to address me on the 29th ultimo, in answer to mine of the 7th of January and that of the 17th February last, relating to the charge of ten cents per ton exacted by consuls of Spain in the United States, on the cargoes of vessels clearing for Spanish ports.

In informing your excellency that I have transmitted a copy of the note to Washington for the information of my government,

I gladly avail myself, &c.,

HANNIBAL HAMLIN.

No. 288.

Mr. Frelinghuysen to Mr. Hamlin.

No. 73.] DEPARTMENT OF STATE,
Washington, June 14, 1882.

SIR: I inclose herewith for your information, copies of a dispatch and the inclosures that accompany it, No. 1145, dated the 29th ultimo, received from the United States vice-consul-general at Havana, relating to the duties imposed at that port on live fish imported from the coasts of Florida.

You have been already instructed on this subject in dispatch No. 49, of the 27th of March last, from this Department.

I am, &c.,

FRED'K T. FRELINGHUYSEN.

[Inclosure in No. 73.]

Mr. Williams to Mr. J. C. Bancroft Davis.

UNITED STATES CONSULATE GENERAL,
Havana, May 29, 1882. (Received June 7.)

SIR: I beg to inclose herewith copy and translation of a communication dated the 12th instant, received at this office from Messrs. Fogarty & Johnson and others, of Key West, Fla,, with copy of my reply thereto, dated 23d instant, in relation to the live fish business that they have been carrying on with this port during the last twenty-five years, and which has recently suffered interruption by the imposition of an import duty by the government of this island.

In presenting this communication to the consideration of the Department I take it that it may not be inopportune if I accompany it with a brief relation of facts partly orally acquired and partly from my own personal knowledge, concerning the fisheries of Florida, and the introduction of their products into the Havana market.

The fisheries of the western coast of that State for several generations prior to its acquisition by the United States from Spain, in 1821, in virtue of the treaty of 1819, had been the principal source of supply of live fish for the inhabitants of Havana.

By that treaty, the live fish brought from Florida was denationalized and became, in consequence, a merchandise of foreign production in Cuba. It was, moreover, excluded from the Havana market by the ancient royal orders of the kings of Spain which excluded all persons from fishing for the purpose of trade but those (matriculados) who had already performed services in their majesties' ships of war or were inscribed in the lists of the many offices to perform such service when called upon.

Thus by the joint action of the treaty and these royal orders, the people of Florida engaged in the occupation of fishing lost their best market, the inhabitants of the Havana losing at the same time their nearest and most abundant source of fresh fish food.

Surreptitious means, however, were devised for the circumvention of the barrier thus interposed between supply and demand.

Thus, soon after the transfer of Florida, a number of small sloops, called smacks, were fitted out in Mystic and New London, in the State of Connecticut, between parties in Havana and others in those towns for the joint prosecution of this trade.

The modus operandi was thus: They carried two flags, one American and the other Spanish, with corresponding registers and crew-lists; then, after catching on the coast of Florida, under the American flag, their full fares, they would set sail for Havana, where they would enter flying the Spanish flag, reporting from some port of the coast of Cuba to the westward of Havana or from the banks of Yucatan.

Through the influence of the monopolist Don Francisco Marty, into whose hands the trade soon fell, it was in this manner carried on from about the year 1823 to 1856.

In this latter year some of the master fishermen hailing from Mystic determined that they would no longer bring the article for the price Mr. Marty was assigning them, which was only five to six cents per pound, while at the same time it was being retailed from his fish market in this city at thirty to forty cents per pound.

They complained that Mr. Marty from a very poor and obscure position had become a millionaire, due mainly to the monopoly he had acquired over the sale of their merchandise, and what they had obtained from it had scarcely been sufficient to cover their living expenses. Therefore, with the double view of becoming independent of Mr. Marty and of reaping a larger profit out of their business, they proposed to the government—

1st. That they should be permitted to bring live fish into this port, under the American flag, free of all import duty.

2d. They would pay on the measured tonnage of their vessel the regular tonnage dues and other customary port charges; and,

3d. They offered to bind themselves never to sell by the cargo above 11 cents per pound.

General Don José de la Concha y Gutierrez, was then captain-general of the island, and to him the proposition was presented.

Hitherto the government had derived no revenue from the vessels plying this trade, and the fishermen offered to pay tonnage and corresponding port charges, such as interpreter, custom-house entry, captain of the port's fees, &c.

The people of Havana, under the monopoly of Mr. Marty, were paying exorbitant prices for the article. General Concha favored the proposal, and referred it for examination to the very able economist Don Bonifacio Cortes, then collector of this port, who in turn reported favorably.

Meantime Mr. Marty brought to bear against the measure all the power of his influence, backed by the navy department; but public opinion pronounced itself in its favor, and General Concha, after some months, issued a provisional decree accepting the proposal of the fishermen with the modification of striking out the fixed price

proposed, leaving this to be settled by the competition of supply and demand, and fifty-five cargoes were brought in under its provision.

Mr. Marty then appealed to Madrid, and succeeded in obtaining a royal order from Queen Isabel annulling the decree of General Concha, and the trade in consequence was for a while totally stopped.

In consequence, another effort was made on the part of the agent of the fishermen, and after an interval of six months another royal order was obtained granting their petition, and since 1858 to the early part of the present year the trade has been actively prosecuted with profit and advantage to both producers and consumers, until practically prohibited, as the signers of the accompanying communication aver, by the recent order of General Prendergast, the present governor-general of the island.

I have the honor, &c.,

R. O. WILLIAMS.

[Appendix 1 to inclosure (translation). Messrs. Fogarty, Johnson et al. to the consul-general.]

KEY WEST, *May* 12, 1882.

The undersigned, owners of schooners in this port, and which have been engaged for many years in the importation of live fish from Florida to Havana, each one of which paying into the treasury of Cuba more than $200 in gold for tonnage dues, inspection, pilotage, &c., which charges we have always considered excessive, for the reason that no Spanish vessel, no matter how large, pays such heavy dues in the United States.

Lately, by the interference of certain speculators of that city, a new and extra duty has been imposed, which, added to the existing duties, amounts to $2.35 for each 100 pounds, or, in other terms, amounting to the net profit we realize after so much labor during each month.

On and after the 1st day of April, the date of the issue of the said decree, our vessels have been compelled to suspend their voyages on account of the enormous dues thus imposed upon them, and we have in consequence made a representation to the honorable the Secretary of State, who has informed us that he has made a representation of our case to the minister of the United States at the court of Madrid.

Since our vessels have abandoned their regular trips to the port of Havana the price of live fish has been greatly enhanced, the poorer classes can no longer afford to purchase it, and the treasury of the island fails to receive the $200 which each of our twenty-one schooners formerly paid into it every time they entered port, so that it will be perceived that by the above operation our vessels are excluded from the market of Havana, and the treasury loses the usual duties imposed, and the poorer classes of Havana can no longer purchase fish because of the monopoly imposed upon it.

We have lately read the telegram of the minister of ultramar regarding the suppression of the differential duties now ruling, and as we believe that it is not to be supposed that the new duty imposed on the 1st April on live fish can be carried into effect, for the reasons we have already stated herein, and as the measure is readily understood to be both prejudicial to the inhabitants and to the treasury of Cuba, we therefore apply to you in order that you address his excellency the governor-general of the island, soliciting that he shall suspend the enforcement of the new duty imposed on live fish on and after the 1st day of April of the current year until the supreme government of Spain shall decide the question subject of this memorial.

FOGARTY & JOHNSON.
ENRIQUE PARODI.
FERNANDO J. MORENO.
W. D. CASH.
JOHN LOWDELN.
JAMES C. CURTIS.
THOMAS SHULTZ.
SAMUEL TILER.

[Appendix 2 to inclosure.]

Mr. Williams to Messrs. Fogarty & Johnson and others.

UNITED STATES CONSULATE-GENERAL,
Havana, May 23, 1882.

GENTLEMEN: Replying to your communication of the 12th instant, I beg to say that the course of procedure prescribed to this consulate-general prevents it, in the absence of instructions from the Department of State at Washington, from initiating negotiations with the governor-general of the island for the introduction of live fish from the coast of Florida for sale in the markets of Havana.

However, with the view of subserving your interests, I send by this week's mail a translated copy of your communication to the Department, which I respectfully submit for its action.

I remain, &c.,

R. O. WILLIAMS,
Vice-Consul-General.

No. 289.

Mr. Hamlin to Mr. Frelinghuysen.

No. 62.] LEGATION OF THE UNITED STATES,
Madrid, July 10, 1882. (Received July 27, 1882.)

SIR: Referring to your instruction No. 49, and to my dispatch No. 38, relating to the duty imposed on live fish imported into the Island of Cuba in foreign bottoms, I have now the honor to inclose herewith, for your further information, a copy and translation of a note, dated the 3d instant, upon the subject from the minister of state, by which it will be observed that the subject has been referred to the governor-general for report, which, when received, will be transmitted to the legation.

I have, &c.,

HANNIBAL HAMLIN.

[Inclosure in No. 62.—Translation.]

The Marquis de la Vega de Armijo to Mr. Hamlin.

MINISTRY OF STATE,
Palace, July 3, 1882.

EXCELLENCY: In answer to the note of your excellency of 27th April ultimo, in which you asked for the suppression of the duty paid on live fish on its importation in foreign bottoms into the Island of Cuba, I have the honor to state that the ministry of ultramar, in view of difficulties encountered, to bring about said suppression, transmitted an "expediente" to the council of state, which has rendered its opinion, in which said ministry has concurred, and in consequence of which said "expediente" has been sent to the governor-general of said island in order that the direction-general of hacienda may report in regard thereto.

So soon as this ministry shall be informed of the decision taken, I will hasten to transmit it to your excellency.

Availing myself, &c.,

El Marques DE LA VEGA DE ARMIJO.

No. 290.

Mr. Frelinghuysen to Mr. Hamlin.

No. 85.] DEPARTMENT OF STATE,
Washington, July 31, 1882.

SIR: I have to acknowledge the receipt of your dispatch No. 62, of the 10th instant, relating to the duty imposed upon live fish imported in foreign bottoms into the Island of Cuba, and inclosing copies of the correspondence had by you with the Spanish minister of state on the subject, which resulted in a reference of the matter to the governor-general of Cuba for his report thereon.

In reply I have to say that your action in the premises is approved, and that further information is awaited with interest.

I am, &c.,

FRED'K T. FRELINGHUYSEN.

No. 291.

Mr. Davis to Mr. Hamlin.

No. 94.] DEPARTMENT OF STATE,
Washington, September 4, 1882.

SIR: Mr. James McKay, a citizen of the United States, resident in Monroe County, Florida, and who is extensively engaged in feeding and shipping cattle to Cuban markets, has recently brought to the attention of the Department a practice pursued by the Spanish consul at Key West in regard to shipments from that port to Havana and other Cuban ports which results in annoyance, inconvenience, and serious losses to himself and other American citizens engaged in similar business.

It appears from Mr. McKay's letter of the 22d of June last to the Department, that the Spanish consul at Key West in pursuance, as that officer alleges, of instructions from his government, exacts and collects from Mr. McKay and other American cattle-shippers forty cents a head on all cattle shipped by them from the State of Florida to Cuba. This is in addition to the ordinary and usual consular fees charged and collected for clearing the vessel, certifying papers, and such other charges as may properly be made by the consul in connection with such shipments. On these same cattle, when landed on the island of Cuba, Mr. McKay and the other shippers situated like him have to pay an import duty of six dollars per head. Of this import duty paid in Cuba, however onerous it may be, they make no complaint, recognizing the right of the Spanish Government to impose and collect within its own territorial jurisdiction such duties as it may deem proper under its own municipal laws, provided it does not transcend the limits of treaty stipulations.

In the letter referred to, Mr. McKay transmits thirteen protests made by him, before a notary public, in relation to as many shipments, giving in each case the name of the vessel, the number of cattle in the cargo, the date of shipment, and the gross amount of head tax charged on each shipment. Thus on the 22d of April, 1882, on the steamship Alabama, from Key West to Havana, four hundred and fifty-one head of cattle upon which he paid to the consul in question one hundred and eighty dollars and forty cents, and so on through all the others, varying only in the number of cattle in each cargo and the gross amount of tax paid. A subsequent letter from McKay of the 19th ultimo incloses ten similar documents. These twenty-three protests represent as many shipments made by him from Key West to Havana between the 22d of April and the 7th of August of the present year, and embracing 10,967 head of cattle upon which Mr. McKay has paid to the Spanish consul at Key West, at 40 cents a head, $4,386.80, and when the six dollars a head paid upon their being landed at Havana ($65,802) is added, it is seen that this one American shipper has been obliged to pay to the Spanish Government the sum of $70,188.80 before he gets his cattle into the Cuban market.

It is not conceivable that the Government of Spain, a country whose history and traditions are so intimately and so justly identified with the growth and progress of the world's commerce, could intend this charge of forty cents a head as a restriction on the commerce of the United States. The long and unbroken friendship existing between the two countries forbid such an interpretation of the policy of His Catholic Majesty's Government.

The charge, nevertheless, under whatever supposed right or necessity on the part of Spain it may be imposed, is in effect such a restriction, and is a burden so onerous on American citizens engaged in that rapidly increasing branch of American commerce as must in time have the effect of excluding them from the Spanish colonial markets of Cuba. It is a charge moreover upon whatever ground it may be placed that is in itself anomalous. No other government with which the United States holds commercial relations attempts to make or enforce any similar tax or charge in the ports of the United States, and it is almost superfluous to state that the consular officers of the United States are not authorized to make any similar charges in the ports of Spain or her transatlantic colonies on any goods, the produce of those countries, destined for ports of the United States. The remedy for this evil is with the Spanish Government. It may in its hands be made simple, adequate, and immediate by putting an end to the practice, and in the present case reimbursing to Mr. McKay the amount he has already paid, which, as shown at present, is $4,386.80.

The alternative left to this government in case that of Spain shall fail to give the subject prompt and just consideration, is one that is not contemplated with satisfaction; that is, a similar charge on colonial products of Spain shipped by Spanish subjects from the ports of their own country to the United States. A simple statement of the present status of the commerce between the United States and these colonies is sufficient to show how detrimental such a measure would be to the commercial interests of the colonial subjects of His Catholic Majesty.

In 1880 the imports of the United States were, from Cuba, $65,423,000; all other Spanish colonial ports, $12,214,000. Exports from United States to these same places in that year—Cuba, $11,000,000; to all other colonial ports, $2,000,000. For 1881, exports from Cuba, $63,000,000; from all other Spanish colonial ports, $12,000,000. Exports from the United States to Cuba, $11,000,000.

You will take the earliest opportunity to bring this claim to the attention of the Madrid Government, and in doing so you will take occasion to express to the minister for foreign affairs the very earnest desire felt by the President that the subject shall receive the prompt and just consideration of that government, and you will lose no time in reporting the results of your proceedings to the department in order that these may be early laid before the President.

I am, &c.,

JOHN DAVIS.
Acting Secretary.

No. 292.

Mr. Hunter to Mr. Hamlin.

No. 95.] DEPARTMENT OF STATE,
Washington Septemher 5, 1882.

SIR: Referring to the instruction No. 94 of yesterday, in relation to the claim of Mr. James McKay, I now, by way of supplement to that instruction, call your attention to the inclosed copy of a letter to this department from Hon. J. H. Sypher, attorney for an American line of steamers plying between New Orleans and Havana, from which it appears that the Spanish consul at New Orleans exacted ten cents per

ton on all the cargo carried by a vessel of that line which recently cleared for Havana, claiming the same as a portion of his fees.

The general observations in instruction No. 94, being equally applicable to this case, I have only to ask you to bring it at once to the attention of the Spanish Government with the request that, if upon inquiry the facts shall be found to have been correctly represented to this Department, the necessary steps may be taken to refund the charges in question to the steamship company.

I am, &c.,

W. HUNTER,
Acting Secretary.

[Inclosure in No. 95.]

Mr. Sypher to Mr. Frelinghuysen.

WASHINGTON, *August* 22, 1882.

DEAR SIR: About two months ago, I addressed the Department on the subject of the exorbitant fees charged by Spanish consuls upon our line of steamers plying between New Orleans and Havana. I am in receipt of a letter from the managers of the company, under date of 17th, from which I extract the following:

"We cleared one of our steamers for Havana to-day, and the Spanish consul exacted ten cents a ton on all the cargo carried by the vessel as a portion of his fees. This is a very heavy tax, and we are sure none such is imposed on Spanish steamers by the American authorities."

If there is any relief against such imposition, I respectfully invoke it through your Department.

Yours, &c.,

J. H. SYPHER.

No. 293.

Mr. Frelinghuysen to Mr. Hamlin.

No. 97.] DEPARTMENT OF STATE,
Washington, September 22, 1882.

SIR: Your dispatch No. 52 of the 6th of June last was duly received, though it does not appear to have been hitherto acknowledged. It is accompanied by a copy of the note of the minister for foreign affairs to you of the 29th of May, in which he seeks to justify the tax. The Department concurs in the view of the matter taken in your dispatch. That the application of the tax to vessels clearing to colonial ports was a mere extension of a tax, exacted since 1874, to vessels clearing for ports in the peninsula, seems to be an evasion of the point at issue. Our complaint is that as our commercial intercourse with Spain is mainly with her possessions in this hemisphere, exorbitant consular charges on United States vessels and their cargoes bound to such ports are virtually an export tax, which assuredly no foreign government can be allowed to exact in our ports, especially as such a power has not been granted to this government. If, however, as the minister says, it will be necessary for the legislature of Spain to correct the evil of which we complain, it is hoped that the executive government of that country will exert all proper influence towards having the desired change effected. This is a measure which may be deemed necessary, not only for improving commercial intercourse between the two countries, but also for strengthening the good feeling between them. It can never be expected that the people of this country will acquiesce in the levy here

by the agents of a foreign government of any charges which, in their amount or character, may be tantamount to an export tax.

A controversy on a similar subject took place a few years since between this government and that of Hayti. A copy of the two principal instructions in regard to the subject from Mr. Evarts to the minister of the United States in that country is transmitted for your information.

The Haytian Government ultimately repealed the obnoxious tax.

I am, &c.,

FRED'K T. FRELINGHUYSEN.

[Inclosure 1 in No. 97.]

Mr. Evarts to Mr. Bassett.

No. 316.] DEPARTMENT OF STATE,
Washington, October 2, 1877.

SIR: I transmit a copy of two letters to this Department, one of the 25th and the other of the 28th ultimo, from Messrs. Wilson and Asmus of New York, complaining of the exorbitant fees recently authorized by the Haytian Congress to be charged by their consuls in foreign countries. From the list of those fees which the writers furnish, their complaint seems to be well founded.

There does not seem to be any stipulation of the treaty between the United States and Hayti which forbids the parties to exact consular fees at their discretion: still these may be so high as virtually to constitute a serious export duty. The Department is not prepared to say that Messrs. Wilson and Asmus are correct in estimating that tax in this case at ten per cent. on values shipped. If, however, it should be anything like that amount, it would be a subject of just complaint by merchants engaged in the trade. This complaint would in part have for its basis the consciousness that while the United States Government itself has no power to levy an export tax, it is virtually allowing a foreign government to exact such a due within its own jurisdiction. It may be true that this, like all other taxes, must ultimately be paid by the consumer, but the form and spirit of the exaction seem objectionable enough to warrant a remonstrance on your part, which you will consequently address to that government.

I am, &c.,

WM. M. EVARTS.

[Inclosure 2 in No. 97.]

Mr. Evarts to Mr. Langston.

No. 24.] DEPARTMENT OF STATE,
Washington, April 12, 1878.

SIR: Your dispatch No. 23, of the 24th ultimo, has been received. It is accompanied by the reply of the Haytian minister for foreign affairs to your note objecting to the consular tax of one per cent. on the value of merchandise exported from this country to Hayti. The reasons assigned by that functionary in defense of the policy of that tax are by no means deemed satisfactory.

It may be allowed that Hayti has a right to impose such duties upon importations from abroad, as to her may seem expedient. Friendly nations which hold intercourse with her, however, also have reason to expect that this act of sovereignty will be exercised in her own dominions, and that the invidious character or degree of the charge will not be sought to be avoided by making her consuls in foreign countries tax-gatherers there.

You will consequently protest against the tax adverted to as decidedly offensive, at least in form, to this government, and express a hope that the proper authority there may see the expediency of such further legislation as may obviate the objections adverted to.

The British Government has applied to us to join with them in protesting against the tax. It has not been thought advisable at present to accept the invitation. You may, however, confer freely upon the subject with the British representative there. Such conferences may make it more easy to compass the common object.

I am, &c.,

WM. M. EVARTS.

No. 294.

Mr. Hamlin to Mr. Frelinghuysen.

[Extract.]

LEGATION OF THE UNITED STATES,
No. 98.] *Madrid, October* 12, 1882. (Received November 6.)

SIR: Referring to my dispatch No. 62, relating to the duty imposed on live fish imported into Cuba in foreign bottoms, I have now the honor to inclose herewith, for your further information, a copy and translation of a note upon the subject, from the ministry of state, dated the 6th instant, by which you will observe that His Majesty the King has ordered that Article III of the law of the 7th July last, relating to the gradual abolition of differential duties in Cuba and Porto Rico, be complied with, in case the reductions provided for in said Article III should be applied to the United States.

* * * * * * *

I have, &c.,

HANNIBAL HAMLIN.

[Inclosure in No. 98.—Translation.]

The Marquis de la Vega de Armijo to Mr. Hamlin.

MINISTRY OF STATE,
Palace, October 6, 1882.

EXCELLENCY: In view of your note of 29th April ultimo, applying for the derogation of the royal order, which imposed a duty of 75 millesimes of escudo upon live fish in foreign bottoms, and considering that the terms of Article III of the law of 7th July ultimo, for the suppression of the differential flag duty, require reciprocity for any reduction of the tariff which may prove beneficial to foreign nations, the King, my august sovereign, has been pleased to order that the provisions of said royal order be adhered to, subject to the consideration of a request, if the case should arise, for the application to the United States of the benefits provided for in Article III of said law.

I avail myself, &c.,

EL MARQUES DE LA VEGA DE ARMIJO.

No. 295.

Mr. Hamlin to Mr. Frelinghuysen.

[Extract.]

No. 100.] LEGATION OF THE UNITED STATES,
Madrid, October 12, 1882. (Received November 6.)

SIR: On the 19th ultimo I had the honor to receive Mr. Davis' instruction No. 94, in regard to a tax of forty cents per head imposed by the Spanish consul at Key West upon cattle exported from that port (by Mr. James McKay and other American shippers) to Havana and other Cuban ports.

Having had cases involving the same principles, where Spanish consuls in the United States had exacted ten cents on each and every ton of the cargo of vessels clearing for Spanish ports, and having presented those cases to the Spanish Government in a note to the minister of state dated the 7th January last, as will be seen by referring to my dispatch

No. 10, I was in some doubt as to the manner in which I should submit the case referred to in Mr. Davis' No. 94. I therefore sent you a telegram dated the 20th September, of which the following is the substance:

Have received your Nos. 94 and 95. My No. 10 embraces case exactly similar to No. 95. The minister of state replying to the same transmitted with No. 52, in effect refuses to put an end to those taxes. What shall I say in reply to that note? Is not No. 94 exactly alike in principle, and are not the charges of Spanish consuls in reality an export duty imposed in our ports as held in my note to the minister of state, which communication was approved by your No. 30? Is that principle now to be given up? Please send further orders. Also observe my Nos. 41 and 75.

* * * * * * * *

To my telegram to you I received a reply of which the following is the substance:

If the Spanish Government cannot remove the burdensome consular tax, request them to seek for power from the legislature. Such a duty is particularly disagreeable here, because this government has no authority to impose an export duty.

Acting, therefore, upon Mr. Davis' No. 94, and your telegram, on the 26th September I fully presented the case to His Catholic Majesty's Government in a note to the minister of state of that date, a copy of which is herewith inclosed for your information.

On the 6th instant, and consequently after I had so presented the case to the Spanish Government, I had the honor to receive your instruction No. 97, relating to the same case, and on a careful examination of instructions Nos. 94 and 97, I think my note to the minister of state of September 26 will be found fully to cover, and complies with, each of said instructions.

It will be seen that I requested prompt action upon the part of the Spanish Government, but no reply has as yet been received, nor is it possible to say when it will be.

Being about to retire from the legation, I have deemed it proper to advise you of my action, and hoping that the same may meet with your approval.

I have, &c.,

HANNIBAL HAMLIN.

[Inclosure in No. 100.]

Mr. Hamlin to the Marquis de la Vega de Armijo.

LEGATION OF THE UNITED STATES,
Madrid, September 26, 1882.

EXCELLENCY: The attention of the Department of State at Washington has recently been called by Mr. James McKay, a citizen of the United States, resident in the State of Florida, and who is extensively engaged in feeding and shipping cattle to the Cuban markets, to a practice pursued by the Spanish consul at Key West, in regard to shipments from that port to Havana and other Cuban ports, which results in annoyance, inconvenience, and serious loss to Mr. McKay, and to other American citizens engaged in similar business.

From the statement made to the Department of State by Mr. McKay it appears that the Spanish consul at the above-mentioned port, in pursuance, as he alleges, of instructions from His Catholic Majesty's Government, exacts and collects from Mr. McKay and other American shippers the sum of forty cents per head on all cattle shipped by them from the State of Florida. That charge is in addition to the ordinary and usual consular fees charged and collected for clearing the vessel, the certification of papers, and such other charges as may be properly made by the consul in connection with such shipments. On these same cattle, when landed in Cuba, the shippers have to pay an import duty of six dollars per head; but of this import duty paid in Cuba, however onerous it may be, they make no complaint, recognizing as they do, and as does my government, the right of His Catholic Majesty's Government

to impose and collect within its own territorial jurisdiction such duties as it may deem proper under its own municipal laws, provided it does not transcend the limits of treaty stipulations.

In presenting the case to the Department of State, in a letter dated the 22d June last, Mr. McKay submitted thirteen protests made by him before a notary public in relation to thirteen shipments, giving in each case the name of the vessels, the number of cattle in each cargo, the date of shipment, and the gross amount of head-tax on each shipment. For example, on the 22d of April last Mr. McKay shipped on the steamship Alabama from Key West to Havana, four hundred and fifty-one head of cattle, upon which he paid to the Spanish consul $180.40 in addition to the usual consular fees. The same charge was exacted in all the other shipments, varying only in the number of cattle and the gross amount paid.

In a subsequent letter dated the 19th ultimo. Mr. McKay transmitted to the Department of State ten more protests, making in all twenty-three protests, and representing as many shipments of cattle made by him from Key West to Havana between the 22d of April and the 7th of August of the present year, embracing in all 10,967 head, upon which he (Mr. McKay) has paid to the Spanish consul at the first above-mentioned port, at the rate of forty cents per head, the sum of $4,386.80; and when the six dollars per head paid upon the cattle on their being landed at Havana is added it will be seen that this one American shipper has been obliged to pay within the short space of four months to His Catholic Majesty's Government $70,188.80 before getting the cattle into the Cuban market. Surely His Catholic Majesty's Government cannot regard the extra $4,386.80 paid by Mr. McKay as legitimate consular fees.

As before stated, Mr. McKay and the other American shippers of cattle at Key West do not object to the regular consular fees for the clearance of the vessel, nor to the six dollars per head paid upon the cattle on arrival at a Cuban port, but they do object very naturally, and very justly, to the imposition at Key West, a port of the United States, of a tax over and above all regular charges, of forty cents per head on all the cattle shipped.

This tax, I need not tell your excellency, call it by what name you may, is no more nor no less than an export tax or duty levied by His Catholic Majesty's Government in a port of the United States, and does the Government of His Catholic Majesty claim to itself the right to levy taxes and collect revenue in the ports of a foreign country?

Your excellency will remember that on the 7th of January last I had the honor to invite your attention to an extra charge of ten cents per ton exacted in ports of the United States by Spanish consuls on the cargoes of vessels clearing for Spanish ports. My government claimed and maintained in that note that the charge in question was an export duty levied in its ports by His Catholic Majesty's Government, and as such was inadmissible.

Your excellency was good enough to reply to that note, on the 29th of May last, stating why such a charge was levied and collected. I transmitted a copy of that note to Washington for the information of my government, and I am now informed that the reasons of your excellency as therein set forth are not satisfactory, and that the charges are inadmissible.

It is hardly necessary to point out to your excellency that the charge of forty cents per head on cattle is precisely the same in principle as that of ten cents per ton on the cargoes of vessels; in other and perhaps plainer words, it is an export duty or tax levied by His Catholic Majesty's Government in the ports of the United States, and therefore my government takes the same stand in regard to it that it took in regard to the first above-mentioned tax or charge.

In view of the fact that the two charges in question are substantially the same, and of the further fact that the question was fully presented and the objections of my government thereto plainly expressed in my note of the 7th January last, little or nothing now remains to be said in regard to the matter further than that the case of Mr. McKay and of the other American shippers of cattle at Key West aggravates the questions, and beside the principle involved, the tax referred to is extremely obnoxious not only to merchants in the United States engaged in commercial pursuits with Spanish ports, but also to the Government of the United States, and therefore my government expects that that of His Catholic Majesty will take immediate steps to do away with these objectionable, offensive, and inadmissible charges, and in the present case to return to Mr. McKay the amount ($4,386.80) paid by him to the Spanish consul at Key West, as head-tax on the several shipments of cattle already made.

My government is unable to believe that the Government of His Catholic Majesty, whose history and traditions are so intimately and so justly identified with the growth and progress of the world's commerce, will insist in the continuance of a system (before unheard of in the world's history) which has for an object the collection of revenue in the ports of a foreign government, and it therefore has no doubt that upon a reconsideration of the subject, its request in the matter will be willingly and speedily complied with. Such charges are imposed by the consuls of no other nation.

If, as intimated in the note of your excellency of the 29th May last, it is necessary

to obtain the authorization of the Cortes to enable the Government of His Catholic Majesty to comply with the request of that of the United States, I am instructed to ask, through your excellency, that such authorization may be obtained from that body.

I am also instructed to state to your excellency that if such authorization is necessary, and if the Cortes decline to grant it, that there will then remain to the United States but one course to pursue. That course will be the levying of a similar charge on colonial products of Spain, shipped by Spanish subjects from the ports of their own country to the United States. This would be the exercise of a power not claimed by my government except in retaliation of the same power wrongfully exercised by the Government of His Catholic Majesty, and I need hardly tell your excellency that such a course is not contemplated with satisfaction by the Government of the United States; and the following simple statement of the present status of the commerce between the United States and the Spanish colonies will be sufficient to show how detrimental such a course would be to the colonial subjects of His Catholic Majesty.

In the year 1880 the exports of Cuba to the United States amounted to $65,423,000 and from all other Spanish colonial ports $12,214,000, making in all $77,637,000. The exports of the United States for the same year to Cuba amounted to $11,000,000, and to all other colonial ports $2,000,000, making in all $13,000,000, and showing a difference in favor of His Catholic Majesty's subjects of $64,637,000.

In the year 1881 the exports from Cuba to the United States amounted to $63,000,000 and from all other Spanish colonial ports $12,000,000, making in all $75,000,000. The exports from the United States to Cuba for the same year amounted to $11,000,000, and to all the other Spanish colonial ports $2,000,000, making in all $13,000,000, and showing a difference in favor of His Catholic Majesty's subjects of $62,000,000.

As before stated, the above simple statement will show to your excellency how very detrimental it would be to the interests of His Catholic Majesty's subjects in Cuba and in other Spanish colonial possessions, should the Government of the United States find itself obliged to retaliate by imposing upon the products exported from those possessions, a tax or charge similar to that now imposed and collected by Spain in the ports of the United States on merchandise shipped to Spanish ports. But the President earnestly and sincerely hopes that the United States will not be called upon to take this step of retaliation, and he entertains the firm belief, in view of the long and unbroken friendship which has existed between the two countries, as well as of the great commercial interests involved, that His Catholic Majesty's Government will not insist upon the continuance of these objectionable and offensive charges, but will readily and willingly take such steps as will do away with them at an early day.

In presenting this subject again to the attention of your excellency I am also instructed to ask that it may receive that prompt and just consideration which its importance demands; and I am likewise instructed to transmit at once to Washington the reply of His Catholic Majesty's Government thereto, for the information and action of the President.

I gladly avail myself, &c.,

HANNIBAL HAMLIN.

No. 296.

Mr. Hamlin to Mr. Frelinghuysen.

No. 101.] LEGATION OF THE UNITED STATES,
Madrid, October 12, 1882. (Received Nov. 6.)

SIR: I have the honor to acknowledge the reception of Mr. Hunter's instruction No. 95, relating to the exaction by the Spanish consul at New Orleans of ten cents per ton on all the cargo carried by a vessel from that port to Havana.

This is in all respects precisely like the cases which were presented to His Catholic Majesty's Government in my note of the 7th January last, a copy of which accompanied my No. 10. It is also in substance and in principle the same as the case set forth in instructions Nos. 94 and 97.

Having presented the argument to His Catholic Majesty's Government in my note above referred to (7th January), and in my note of the 26th September, in regard to the case named in instructions Nos. 94 and

97 (a copy of which note accompanies my No. 100), I did not deem it necessary to repeat the argument in this case, but presented it in a brief note to the minister of state, a copy of which is herewith inclosed for your information.

I have, &c.,

HANNIBAL HAMLIN.

[Inclosure in No 101.]

Mr. Hamlin to the Marquis de la Vega de Armijo.

LEGATION OF THE UNITED STATES,
Madrid, September 29, 1882.

EXCELLENCY: Referring to my note of the 26th instant, relating to the extra charge of forty cents per head levied and collected by the Spanish consul at Key West, Florida, on all cattle shipped by American citizens to the Island of Cuba, and to the ten cents per ton levied and collected by Spanish consuls in the ports of the United States on the cargoes of vessels clearing for Spanish ports, I have now the honor to inform your excellency that I have received from my government a further instruction relating to the last mentioned charge, exacted by the Spanish consul at New Orleans on the cargo of a vessel belonging to an American line of steamers recently cleared from that port for Havana.

As the facts presented in my notes of the 7th January last and of the 26th instant equally apply to this case, it is not necessary for me, at this time, to further argue the question, but I may be permitted to add that this latter complaint, together with others that are constantly being presented to the Departmens of State at Washington, will further show to your excellency how very objectionable and offensive these extra charges are to the merchants and shippers of the United States, as well as to my government; and it, therefore, confidently relies upon the prompt action His Catholic Majesty's Government to do away with these charges, and to return, in this latter case, the amount which has been demanded and collected by the Spanish consul at New Orleans.

I gladly avail myself of this occasion to renew to your excellency, &c.,

HANNIBAL HAMLIN.

No. 297.

Mr. Frelinghuysen to Mr. Reed.

No. 111.] DEPARTMENT OF STATE,
Washington, November 10, 1882.

SIR: Mr. Hamlin's No. 100, of the 12th ultimo, has been received. His course in presenting our complaint against the consular fee of forty cents per head on cattle shipped from our ports to the Antilles (as set forth in Mr. Davis' No. 94) as resting on the same basis as the previous complaint concerning the exaction of a consular fee of ten cents per ton on invoiced cargo, conforms to the intention of the department; and his note of 26th of September to the Marquis de la Vega is approved as a forcible, and, it is hoped, conclusive exposition of our case.

The two classes of charge are of the same nature, and are opposed by us as being a revenue charge levied in our ports, not for services rendered by the consul or proportionate to such services, but as in effect an export tax. It cannot adequately be met by saying (as has been said in past discussion) that our consular fees for authenticating invoices may, when these are numerous, amount to a heavy charge, exceeding that in the case of a single moderate cargo when comprised in one invoice and assessed at ten cents a ton. The service performed by the consul is one required by law for the protection of the revenue

at the port of entry, and involves ascertainment of the bona fides and responsibility of the exporter, and the substantial accuracy of the statements contained in the invoice and sworn declaration therewith. This service is uniform in all cases, and neither the consul's labor nor his responsibility are measurable by the weight of the merchandise invoiced or the number of pieces of which it is composed. It would apparently be as tenable for Spanish legislation to assess an ad valorem tax for the verification of an invoice. No basis of consular fees which depends on the weight, size, amount, or value of the merchandise, and disregards the specific clerical or administrative act done, can be in principle anything short of an export tax levied in the jurisdiction of another State.

With regard to the head tax of forty cents on cattle, a point remains on which you may find it appropriate to seek information. That tax first appears in the consular tariff of July 15, 1874, article 51. By a royal order of October 18, 1876, that article (with articles 48, 49, and 50) was suppressed, and substituted by a uniform consular fee on verifying invoices of five cents in Europe and ten cents in America per ton or fraction of a ton. And a further circular royal order of October 7, 1881, directed that the fees on invoices for Cuba and Porto Rico should follow the modification of articles 48 to 51, inclusive, contained in the said royal order of October 18, 1876. In the absence of knowledge of any later order, it is not perceived why the head tax of forty cents is levied, instead of the uniform tax of ten cents per ton weight. While both charges are alike objectionable in principle, a tonnage tax on cattle would be the lesser in amount, and you may use this circumstance as argument in showing, not only the identity of our complaints in the case of tonnage and head tax, but also as evidencing a disposition to make the charge effectively an export charge for revenue by so assessing it as to yield in any given case the largest return.

It is noticed that Mr. Hamlin speaks, in his note to the minister, of the charge of forty cents per head being collected in addition to all other consular charges. This may be somewhat inaccurate if it should appear that the charge is the only one levied on verifying an invoice. It is understood to be distinct from and additional to all other charges on manifests, clearances, and other ship's papers.

I am, &c.,

FREE'K T. FRELINGHUYSEN.

SWEDEN AND NORWAY.

No. 298.

Mr. Stevens to Mr. Frelinghuysen.

No. 125.] LEGATION OF THE UNITED STATES,
Stockholm, April 17, 1882. (Received May 1.)

SIR: In view of the large and increasing emigration of foreign-born persons to the United States and the augmented military armaments of the European nations, resulting in more stringent regulations as to military service and obligations, the question of American naturalized citizenship is assuming increased importance, and necessarily will demand more attention and vigilance on the part of diplomatic and consular agents of the United States in foreign countries. It therefore seems to

me proper that I should report to the Secretary of State two cases as to which I have been called to take action—one in Sweden and the other in Norway.

C. M. Cedergren was born in Munsteras, Sweden, September, 1845, and emigrated from the country in June, 1864. He became a naturalized citizen of the United States February 28, 1880, in Washington Territory, having taken out his preliminary paper in 1877. In 1881 he came on a visit to the vicinity of his birth for the first time after an absence of seventeen years, having in his possession his certificate of naturalization, which was in due form. Not long after his return he was called on by a local Swedish official and a fine demanded of him for a non-performance of military duty. The Swedish law does not demand military service of the subject until he is twenty-one years of age. Cedergren was less than nineteen years of age at the time of his emigration, more than two years before he would have been liable to military service had he remained in the country. He informed the officer that he was a naturalized citizen of the United States and could show his naturalization paper. Being in Stockholm not long after, if he did not come here for the express purpose, early in August, 1881, he called on the United States consul, Colonel Elfwing, for information and advice. Consul Elfwing brought the case to my consideration.

I directed him to have Cedergren certify under oath as to his age at the time of his emigration and the date of his departure from the country to show his naturalization paper to the Swedish local official, to be respectful in his demeanor to the Swedish officials, to pay no fines, and not to go to the military drill. Cedergren certified under oath before the consul as to the time of his emigration and his age at that date. Nothing more was heard from him until nearly the close of March of the present year. He then wrote from his place of temporary domicile that he had just been called on by the district official, his fine for past delinquency demanded, and ordered to appear April 14, for military service. He had then been in the country since his return from the United States less than one year and had from the beginning declared his purpose to leave during the present year. He at once wrote Consul Elfwing of the new and imperative demand made on him, saying that the Swedish official would not even look at his United States naturalization paper. Consul Elfwing promptly communicated with me, and I instructed him to write Cedergren to pay no fine and not to go to the military drill, and this instruction the consul at once complied with

I deemed it my duty to make known the facts of the case to His Majesty's minister of foreign affairs, and to secure his intervention before April 14, the date of the beginning of the demanded military service. To secure prompt action and to more surely avoid awakening sensibilities, knowing how keenly the leading men of the country feel in regard to the large draft now being made on their population by emigration, I deemed it expedient not to make a formal demand by written communications, but to call in person on His Majesty's minister, Baron Hochschild, state the facts verbally, and adjust the case in as informal a manner as possible. Accordingly I called on the minister of foreign affairs and gave him a full statement of the facts, laid before him the letters of Mr. Cedergren, in which he had stated his griveance, and informed him that the naturalization certificate of Cedergren was correct and in due form. I called the minister's attention to the treaty of 1869 between the United States and Sweden and Norway, and expressed the opinion that according to its terms Cedergren was free of all liabilities as to Swedish obligations. He gave me a candid hearing, and said he

would confer with the minister of justice, to whose cognizance the case properly came, and I would be promptly informed of the conclusion reached. Two or three days after I received a note from Baron Hochschild to the import that the minister of war had ordered Cedergren's name to be stricken from the conscription roll, as he was indisputably an American citizen, but as he had not taken his first step to naturalization until 1877, his naturalization could not have a retroactive effect, and that therefore he was still liable to Sweden for his military fine imposed for his prior delinquency.

Believing that this decision had been arrived at without sufficient examination of the terms of the treaty, and that a verbal statement of the case would be less embarrassing and more speedy in its result, as soon as practicable I sought another personal interview with the minister of foreign affairs. With him I reviewed the language of the treaty and protocol of 1869. I called to his consideration the discussion between the United States and France in 1859 and 1860 relating to the case of Michel Zeiter, in which our government claimed that the naturalized citizen could be held responsible on his return to his native country only for liability incurred prior to his emigration; that the French judicial tribunal finally decided the case of Zeiter in favor of the United States, and without any treaty on the subject; that the object of the treaties of naturalization which we had with Sweden and Norway and other nations was to shut out all chance for controversy on the essential point relating to Cedergren. I informed the minister of foreign affairs that in 1879 and 1880 we had nearly forty cases similar to that of Cedergren with Germany, with which we had a similar treaty, and that in all these cases where there was no military liability before and at the date of emigration Germany admitted our claim.

To this interview with the minister of foreign affairs I took and read the circular of the German minister of interior of July, 1868, with which the circular of the German minister of justice, of the same year, was in entire accord, which contained the instructions to the local German officials, fully sustaining the construction of the treaty which I urged. After hearing my presentation of the case and carefully re-examining the text of the treaty and protocol, Baron Hochschild frankly declared my construction correct, and the case of Cedergren clear of Swedish claim of liability.

In the evening of the same day April, 8 I received his official note fully covering the conclusion reached in our verbal consideration of the case, and remitting the fine which had been imposed on Cedergren, thus acknowledging his unqualified American citizenship.

Late in November, 1880, I received a letter from Peder Sigbjornsen, Skoland, district of Stavanger, Norway, where he was then stopping with his father, saying that he was a citizen of the United States on a visit among his relatives and friends, and intended to return to his adopted country in 1881. He forwarded to me his naturalization certificate which was in due form and properly authenticated. He informed me that his American citizenship had been disregarded by the Norwegian officials. As he had not in this communication furnished me all the necessary data to enable me to take action in his behalf, I wrote him for further information as to the regiment in which and the names of the officers under whom he was called to perform military service. Some time expired before he received my communication, as it did not go to the post-office at which he was accustomed to receive his letters. The distance of his place of domicile was about four hundred miles from this legation. It was not until early in March, 1881, that

I was able to present the case to the foreign office of His Majesty's Government, which took the necessary steps to investigate the case through the Norwegian officials. Sigbjornsen was found to be a native of Norway who had lived eight years in the United States, and had been naturalized as a citizen of the latter country. He had returned to Norway in April, 1879, and was residing with his father in the autumn of 1880, when the military authorities demanded of him military service. This he refused declaring himself a citizen of the United States. But it did not appear that he showed his naturalization paper to the Norwegian authorities. He was fined for non-performance of military duty, and paid the fine. Afterwards he was informed by the Norwegian officials that he would be required to perform military service early in 1881, as a Norwegian subject. In the sequel there was found to be some conflict of statement and some evident misunderstanding as to the facts in the case between Sigbjornsen and the Norwegian local military authorities. As the acting minister of foreign affairs, Mr. Lagesheim, and the Norwegian minister of state, Mr. Kierulf, residing officially in Stockholm, seemed ready to act equitably in the case, I suggested it might be informally adjusted, and this suggestion was accepted. By the express terms of the treaty of 1869, Sigbjornsen could remain two years in Norway without rendering himself liable to be claimed as a Norwegian subject. The two years had now nearly expired. But in view of the fact that his American citizenship had been disregarded for the period of several months, and a fine imposed on him, it was agreed that he might remain in Norway until August 24, 1881, about two years and five months in all, after his return from the United States, and his fine refunded him. I had contended that he was entitled to *two years of unmolested residence* in Norway as a citizen of the United States, and that during the time in which military pressure had been made on him and the fine remained enforced against him, he had not had unmolested residence as an American citizen. This informal adjustment of the case seemed to me equitable, and was accepted as satisfactory by the Norwegian minister and the acting minister of foreign affairs, Baron Hockschild being then absent from his post on leave.

I have given thus somewhat minutely an account of these two cases of disputed citizenship and the manner of their adjustment, because, so far as I know, these are the first which have arisen, as to which this legation has been called to take action, since the going into effect of the treaty of 1869, and because they may serve as precedents for the settlement of future cases of like character which can scarcely fail to arise more often in the future. And in this connection I can bear testimony to the courtesy and good faith with which the Swedish and Norwegian ministers of His Majesty's Government dealt with the issues raised, when they had the opportunity fully to consider them.

I have, &c.,

JOHN S. STEVENS.

No. 299.

Mr. Frelinghuysen to Mr. Stevens.

No. 125.] DEPARTMENT OF STATE,
Washington, May 2, 1882.

SIR: I have received your dispatch No. 125, of the 17th ultimo, relating to two cases in which the naturalization was disputed, by the Swe-

dish authorities, of one C. M. Cedergren and one Peder Sighjornsen, Skoland.

Your action, as reported in the said dispatch, is approved.

I am, &c.,

FRED'K T. FRELINGHUYSEN.

TURKEY.

No. 300.

Mr. Wallace to Mr. Blaine.

No. 30.] LEGATION OF THE UNITED STATES,
Constantinople, November 22, 1881. (Received Dec. 14.)

SIR: The consul at Smyrna, Mr. B. O. Duncan, sent me, some days ago, a communication touching the imposition by the Turkish authorities in that city of an extraordinary duty upon alcohol. The case arose in course of the business of Messrs. Reggio & Belhomme, merchants and representatives of a Boston firm entitled Laforme & Frothingham.

Under § 4, Consular Regulations 1881, I referred the papers to Consul-General Heap for his consideration and action, and he returned them to me. Copies are herewith inclosed.

After an examination of the treaty of commerce between Turkey and the United States and the agreed specified duty upon the article in question, it seemed plain that the additional duty demanded was unwarranted; and as the alcohol was of American manufacture I thought it my duty to present the matter to the Porte. My communication addressed to his excellency the minister of foreign affairs is also inclosed herewith. The demand made, you will observe, has reference to the language of the treaty.

As the inclosures contain a full and particular statement of the affair, I think it superfluous to enter into further explanation. Hoping my action will meet approval,

I have the honor, &c.,

LEW. WALLACE.

[Inclosure 1 in No. 30.]

Mr. Duncan to Mr. Wallace.

UNITED STATES CONSULATE,
Smyrna, November 3, 1881.

SIR: I have the honor to call your attention to a new regulation of the Turkish customs first put in force at the custom-house here, which I think you will agree with me in regarding as a manifest and intentional violation of Article V of our treaty of commerce with the Ottoman Empire. That article clearly provides that with the exception of *tobacco and salt* "that duties to be imposed on every article the produce or manufacture of the United States of America, imported into the the empire and possessions of His Imperial Majesty the Sultan, shall in *no* case exceed one fixed rate of 8 per cent. ad valorem, or a specific duty, fixed by common consent, equivalent thereto"; and also that "neither the buyer nor the seller shall be charged with any further duty with respect to them."

The equivalent of the 8 per cent. "fixed by common consent" for alcohol, which is one of the most important articles of American production imported here, is 16 *paras per oke*, of 2¾ English pounds. As you will see from the letter of Messrs. Reggio & Belhomme, prominent merchants of this place, a translation of which I inclose,

the custom-house here now demands of them the payment of 48 paras per oke as a *fiscal* duty, as it calls it, over and above the former *custom-house* duty of 16 paras; that is 64 *paras* per oke, or 32 per cent. ad valorem, just four times the duty allowed in the treaty.

Note, too, that Article XIV of this new regulation speaks of 32 *paras* increase, whereas the actual increase demanded by the custom-house here is 48 paras, and of 60 *paras* in case the goods are placed in a store, whereas the actual demand is for 90 paras. This difference is explained by the custom-house as being made on private instructions from Constantinople.

I cannot myself see any possible way of reconciling this new regulation with the language of our treaty, and that of the French treaty which I have seen is in almost exactly the same words as ours. It is presumed that the change has grown out of the financial negotiations now pending at Constantinople. But if so, it should certainly not have been put in force until fully agreed upon and sanctioned by all the powers including the United States.

The fact that Messrs. Reggio & Belhomme are not Americans—they are French—I presume has nothing to do with the matter, as they represent here an American house of Boston. The language of our treaty is as to the rights of American "produce and manufactures," and must, I suppose, be equally applicable whether imported into Turkey by an American or a foreigner.

I submit the case for your consideration and action according as you may see fit and proper under the circumstances. I have taken no steps here except to write to the governor-general, Ali Pasha, quoting the above-cited passage of our treaty, and entering my protest against its violation.

I shall also immediately report the case fully to the Department of State, sending my report first to you, to forward with any additional report you may see fit to make.

I shall be obliged to you for any advice or instructions you may be able to give me for my guidance as early as possible.

I am, sir, &c.,

B. O. DUNCAN,
United States Consul.

[Appendix 1 to inclosure 1.—Translation of extract from the new regulations of the Turkish custom-house on spirits.]

ARTICLE 14.—On the importations of spirits (alcohol) from foreign countries, and which are to come for the manufacture of eau de vie, there will be collected, in addition to the custom-house duties (droits de douane), another fiscal duty (droit de fisc) of 32 paras, payable in cash, for each oke (2¾ pounds) of alcohol in a proportion of two okes of eau de vie for one oke of alcohol.

If, at the time of the importation of the spirits, there be persons who do not wish to pay in cash this fiscal duty, then the spirits will be placed in a store designated by these same persons, provided that the position of the store or depot is in a place authorized by the police regulations. This store must have two locks, and consequently two keys, of which one will be kept at the custom-house and the other in the hands of the owner (of the spirits). Each oke of alcohol withdrawn from these stores to be sold must pay a duty of 60 paras.

[Appendix 2 to inclosure 1.—Translation.]

Messrs. Reggio & Belhomme to Mr. Duncan.

SMYRNA, *October* 31, 1881.

SIR: The undersigned, Reggio & Belhomme, merchants established in this city, representatives of Messrs. Laforme & Frothingham, of Boston, have the honor to represent to you that having imported some alcohol from the United States, the direction of the "indirect contributions" at Smyrna refuse to deliver it to them for the purpose of sale on the market, on the payment of the custom-house duty of 16 paras per oke as fixed by the treaty of commerce.

It claims a supplementary duty of 48 paras the oke, according to a new regulation for the sale of spirits, prepared at Constantinople, and of which a copy is herewith inclosed.

The undersigned recommend to your attention Article 14 of this regulation fixing the new duty at 32 paras the oke, and not 48 paras, which the direction at Smyrna demands.

In addition, they beg you to remark that the new duty of 48 paras the oke is payable at the custom-house, at the same time as the old duty of 8 per cent. If the alco-

hol is sold on the market after having been in the stores of the undersigned, without the payment of the duty of 48 paras the oke, then the duty is raised to 90 paras the oke (instead of 60 paras as given in Article 14 of Regulations).

To resume, up to the present the undersigned have paid the single and unique duty of 16 paras the oke on alcohol, and have had the faculty (right) to sell it freely on the market.

Since the 21st of October, N. S., 1881, in order to have these same advantages, the old duty of 16 paras the oke is required of them, and in addition the new duty of 48 paras, in all 64 paras the oke, or a duty of 32 per cent. instead of 8 per cent., paid heretofore, and all that is recognized by the existing treaties of commerce.

The undersigned, finding themselves under the necessity of paying this duty of 64 paras the oke on a lot of 77 barrels of alcohol, which they could not allow to remain longer on the quays of the custom-house exposed to all kinds of risks, protest against this new state of affairs, for the damages which have already arisen and which may result therefrom, which they receive to themselves to establish with all necessary evidence, and they beg you to intervene with the minister of the United States at Constantinople to have instructions sent to the direction of the indirect contributions at Smyrna not to insist longer on the collection of this new duty of 46 paras the oke, and that it be limited to the old duty of 8 per cent. or 16 paras the oke, this being the only duty sanctioned by the treaties of commerce in force.

They have the honor, &c.,

REGGIO & BELHOMME.

[Inclosure 2 in No. 30.]

Mr. Wallace to Assim Pacha.

UNITED STATES LEGATION,
Constantinople, November 17, 1881.

SIR: I have the honor to ask your attention to a matter which is the subject of an official report to this legation from the American consul at Smyrna.

Messrs. Reggio & Belhomme, merchants of Smyrna, are representatives of Messrs. Laforme & Frothingham, of Boston, United States of America. In course of their business, the latter consigned seventy-seven barrels of alcohol to the former. Upon the arrival of the goods at Smyrna the direction of the indirect contributions refused to deliver them for the purpose of sale on the market, for a reason heretofore unheard of and clearly unwarranted. Messrs. Reggio & Belhomme tendered payment of the usual customs duty of 16 paras the oke, which was the amount fixed by the agreed tariff upon alcohol under the treaty of commerce between Turkey and the United States. The direction declined the tender, and demanded a supplementary duty of 48 paras the oke, giving as a reason that they were acting in accordance with a new regulation for the sale of spirits prepared at Constantinople.

Messrs. Reggio & Belhomme at first resisted the demand, but were at length driven to payment at the rate of 64 paras the oke. They made the payment under protest, reserving the right to claim damages then accrued, and such as might thereafter accrue.

Investigation of the affair was at once instituted by the American consul at Smyrna, which brought to the surface some new regulations said to have been prepared and sent down from Constantinople; amongst them one numbered Article 14, against which he promptly protested.

Apropos this statement of facts, I have the honor to ask that the direction of indirect contributions at Smyrna be required to suspend the further execution of the said Article 14, in so far as it has any effect upon any article of production or manufacture in the United States of America, imported into the empire and possessions of His Imperial Majesty the Sultan; that as respects even articles the produce or manufactures of the United States of America, whether in the hands of a buyer or seller in His Majesty's empire, the said Article 14 be entirely canceled and revoked; and in particular that the duties upon alcohol be returned and limited to the rate of 16 paras the oke. As Messrs. Reggio & Belhomme have reserved the right of making demand for damages sustained by them in this business, no claim of that nature is now presented to your consideration.

To obtain the relief asked I think it only necessary to present two points for consideration, and those in the briefest manner.

First. The Article 14, new regulations referred to, is in palpable violation of Article V of the treaty of commerce between the United States and the Ottoman Empire. Article V of the treaty, with exception of tobacco and salt, provides that His Majesty engages that the duties to be imposed on every article, the produce or manufacture of the United States of America, imported into the empire and possessions of His Imperial Majesty the Sultan, shall in no case exceed one fixed duty of 8 per centum ad valorem

on a specific "duty fixed by common consent, equivalent thereto," and also, that "neither the buyer nor the seller shall be charged with any further duty with respect to them."

Under the common-consent clause of the Article V the specific duty agreed to be fixed upon the item alcohol is 16 paras per oke of 2¾ English pounds, that rate having been accepted as the equivalent of the 8 per cent. recited in the treaty. (See tariff, Turkish and American.)

In the face of this plain treaty provision the Article 14 of the regulations proposes to collect on alcohol, in addition to the custom-house duty (of 16 paras), another fiscal duty of 32 paras cash per oke; that is, 48 paras in all.

To make the imposition worse, there is a clause in the article objected to, evidently of a penal character, providing that in a certain contingency the so-called fiscal duty shall be increased to 60 paras. The word fiscal applied descriptively to the new duty can be of no assistance in giving validity to the measure as against the treaty.

Second. Turning in the next place to the operation of the Article 14, as it was exemplified in this case by the direction of indirect contributions in Smyrna, it appears from the report given by the American consul that before the Messrs. Reggio & Belhomme could get the 77 barrels of alcohol they were compelled to and did pay in all at the rate of 64 paras the oke. When in protest they represented that Article 14 stopped at 48 paras (the goods not having been put in store), and asked the authorities demanding 64 paras; they were told that it was according to private instructions from Constantinople. This fact is given your excellency without comment further than that it indicates a tendency to lawlessness, which I do not doubt will be promptly checked.

I avail myself, &c.,

LEW. WALLACE.

No. 301.

Mr. Wallace to Mr. Blaine.

No. 33.] LEGATION OF THE UNITED STATES,
Constantinople, November 23, 1881. (Received Dec. 13.)

SIR: When, after addressing the demand to the Porte for the execution of Ali, the murderer of Rev. Mr. Parsons (see dispatch No. 22, October 22), I set about preparing a paper to cover the further instructions in your dispatch No. 3, I could find nothing on file touching eight cases of robbery, &c., of missionaries in His Majesty's dominions. Only five cases seemed to have been reported, including the matter of Rev. Mr. Knapp, which has to do with a purchase of real property, and is, as I am now informed, *pendente lite* on appeal to some superior court.

On this I requested Mr. Bliss, of Constantinople, who seems to be the active agent of the American missionaries in general, to send me a statement of all cases of the kind in his knowledge. To-day Mr. Pettibone replies for Mr. Bliss. A copy of his letter is inclosed herewith.

Of the cases reported by Mr. Pettibone, Nos. 1, 2, 3, and 5 were never communicated to the legation. There being no particulars about them at hand, it is not possible for me to decide if they are cases proper for presentation and demand under your instructions.

Of the others—No. 4, Rev. J. W. Parsons—the case is in form of a demand for the execution of Ali, the murderer. In an interview had yesterday the minister of foreign affairs assured me I would have answer about the execution in a few days—probably to-morrow. He gave me no indication of the purport of the reply.

No. 6. Rev. Mr. Barnum is also concluded. The victim got back his property and the robbers are reported to have been all killed.

No. 8. Rev. Mr. Pierce is also at an end. Five of the robbers escaped for want of identification on the trial. Two of them were convicted and sentenced to hard labor in prison.

Mr. Pettibone at my instance has kindly undertaken to write to Mr.

Pierce to know if he wants return of the property taken from him; if so, to furnish me with an itemized statement of it.

No. 7. Rev. Mr. Montgomery is the only case really remaining without disposition. As to it, I am informed that the robbers have been arrested. Through Mr. Pettibone, I have sent for a statement from Mr. Montgomery himself as to the present status of the affair, including a statement of the property taken from him, with its value, without which it is not possible to make demand for compensation. When that comes to hand I shall present it according to instructions.

Let me add that an examination of the records of the legation satisfies me, not merely that my predecessors, including Mr. Heap, as chargé d'affaires, are exonerated from the charge of indifference in connection with the foregoing cases of outrage, but that they are entitled to the greatest credit. Mr. Pettibone, in behalf of his brethren here, is about to write to Mr. Clark, at Boston, to that effect.

I have, &c.,

LEW. WALLACE.

[Inclosure in No. 33.]

Mr. Pettibone to Mr. Wallace.

CONSTANTINOPLE, *November* 23, 1881.

DEAR SIR: You request me to give you a statement indicating the particulars of the eight cases of robbery of Americans in the Turkish Empire, to which cases allusion is made in the communication addressed to the President of the United States by the W. T. Mission at its annual meeting in May, 1881. They are the following:

1. Rev. J. W. Parsons and his wife, together with Miss L. Farnham, were robbed by a Circassian on a mountain road near Koordbeleng in 1879.

2. Rev. L. Bartlett and wife, of Cesarea, and Dr. Davis and wife, with Miss Laura Chamberlain, of Sivas, were robbed while journeying from Broossa to Cesarea in 1879.

3. Rev. J. Leonard and wife, with Miss Eliza Fulcher, of Marsowan, were robbed and Mr. Leonard beaten by Circassians while journeying at a few hours' distance from their home in 1879.

4. Rev. J. W. Parsons and his servant were robbed and murdered on the mountains near Baghchejuk in 1880.

5. Rev. H. Perry was robbed while journeying east of Sivas in 1881.

6. Rev. H. N. Barnum was robbed on his journey from Harpoot to Sivas in the spring of 1881.

7. Rev. G. Montgomery, of Marash, was robbed while traveling from Marash to Adana in 1881.

8. Rev. J. Pierce was robbed on the mountains a few hours from Nicomedia in 1881.

At the time when the communication was made to the President none of the authors of these outrages had been brought to justice. Since that time some or all of the persons guilty of the robberies specified in cases 4, 7, 6, and 8, have been arrested and punished.

Very truly, &c.,

J. T. PETTIBONE.

No. 302.

Mr. Wallace to Mr. Blaine.

No. 45.] LEGATION OF THE UNITED STATES,
Constantinople, December 20, 1881. (Received Jan. 10, 1882.)

SIR: I have the honor to inform you that on the 16th instant I received from the Rev. R. M. Cole, an American missionary resident at Erzroom, but temporarily visiting this city, a note stating that on or about September 17 ultimo, Major Everett, British vice-consul at Erzroom, had sent him a communication saying that from a circular then at hand he was afraid he would not be able to look after American

interests thereafter, and advising him (Mr. C.) that he had better see the ambassador at Constantinople about the matter. A copy of Mr. Cole's letter is inclosed.

The evening of the 16th I called to see Lord Dufferin to ascertain if the circular was of general application, and whether it was possible to obtain a modification of it so as to allow Americans to have the benefit of the protection theretofore generously accorded them in localities where there was no American consul. His lordship explained that the circular had not been issued from any indisposition to give needful security to my countrymen, especially American missionaries, but was really to enable Her Majesty's consuls to prevent the abuse of the privilege by unworthy characters. He suggested that if I would address him a note of request in behalf of Americans, it would give him pleasure to submit it to the proper home authorities, and he had no doubt it would receive favorable consideration.

Following this suggestion, next day I addressed a note to his lordship, of which a copy is inclosed.

A copy of his lordship's reply is also made an inclosure herewith, together with the circular referred to in his note.

I have little doubt that Her Majesty's authorities will kindly permit the modification requested. In the event they do not, however, it will be matter of serious concern by the President and his advisers to remedy speedily as possible the situation in which our people in the distant parts of the empire and elsewhere unfortunately find themselves. Indeed, I submit the propriety of some action looking to protecting them independently of English courtesy.

Very respectfully, &c.,

LEW. WALLACE.

[Inclosure 1 in No. 45.]

Mr. Cole to Mr. Wallace.

SCUTARI, *December* 14, 1881.

MY DEAR SIR: As Americans resident in Erzroom, Armenia, permit me to call your excellency's attention to the following statement:

We, like other American missionaries of Armenia, have hitherto received the kind consideration of English consuls so far as to secure all needed personal protection, the same as British subjects. But on or about September 17 I received a communication from Major Everett, Her British Majesty's vice-consul at Erzroom, reading something as follows:

"I am sorry to say that from a circular just at hand, I am afraid I shall not be able to look after American interests in the future. You had better see the ambassador at Constantinople about it," &c.

Now I beg to submit to your excellency as to whether such a decision has been come to by Her Majesty's Government, or may we not yet hope that the former courtesy will be extended to us, especially as in those interior towns it will be very difficult to arrange suitable consular agencies.

I am, &c.,

B. M. COLE,
American Missionary, Erzroom.

[Inclosure in No. 45.]

Mr. Wallace to Lord Dufferin.

UNITED STATES LEGATION,
Constantinople, December 17, 1881.

MY LORD: I have the honor to advert to the many instances in which American citizens resident in the Ottoman Empire, and elsewhere in the East, have been recipients of the very efficient protection heretofore extended them in times of danger by Her Majesty's consuls, and in behalf of my government to make grateful acknowledg-

ments for all such favors. The extent to which such American residents have come to confide in the sufficiency of that protection and the certainty of its being given them on proper appeal, is so well known to your lordship that you can imagine with what consternation notice was received from your vice-consul, Major Everett, at Erzroom, to the effect that it would not be longer in his power to look after their interests.

Moved by great solicitude for the good people left thus exposed, I make haste to inquire if it would be inconsistent with your lordship's views or the policy of Her Majesty's Government to so modify the instructions issued to your consular authorities in Turkey, and elsewhere in the province of your embassy, as to permit of the ancient protection as respects my countrymen. If compliance with my request should be found possible, will your lordship permit me to hope for speedy action in the matter?

I avail myself, &c.,

LEW. WALLACE.

[Inclosure 3 in No. 45.]

Lord Dufferin to Mr. Wallace.

CONSTANTINOPLE, *December* 19, 1881.

SIR: I have the honor to acknowledge the receipt of your letter of the 17th instant in which you beg that Her Majesty's consular agents in the Ottoman Empire may continue to afford consular protection to American citizens in places where there are no United States consular representatives.

In reply I have the honor to transmit to you herewith a copy of a circular which, in obedience to instructions from Her Majesty's principal secretary of state for foreign affairs, I addressed some months ago to Her Majesty's consular agents in Turkey, by which you will perceive that British consular protection cannot be afforded to subjects of foreign powers before the consent of Her Majesty's Government has been requested and obtained.

I have accordingly forwarded your request to Earl Granville, and will not fail to communicate to you his lordship's reply.

I beg to thank you for the high terms in which you speak of the services which Her Majesty's consular officers have been enabled to render your countrymen hitherto, and have the honor to remain, &c.,

DUFFERIN.

[Inclosure 4 in No. 45.]

Lord Dufferin's circular instruction to British consular officers.

THERAPIA, *August* 26, 1881.

SIR: The question of granting British consular protection to persons who are not British subjects, or who are not actually in the service of British consular officers, has recently been brought to the notice of Earl Granville.

It appears to his lordship that even as regards foreigners acually in the service of Her Majesty's consulates, protection should only be extended to a limited number, but that, as regards any other foreigner who may claim it, nothing short of the most special circumstances would warrant the grant of protection, unless the government of the country of which the foreigner applying for protection is a native shall have previously requested and obtained the consent of Her Majesty's Government to such protection being accorded, on the ground that the applicant has no consular authority representing his own country in the locality to whom he can appeal.

I have, therefore, to request that, in dealing with applications from foreigners for protection, you will act in accordance with the principles laid down in this dispatch.

I am, sir, &c.,

DUFFERIN.

No. 303.

Mr. Bancroft Davis to Mr. Wallace.

No. 27.] DEPARTMENT OF STATE,
Washington, December 23, 1881.

SIR: Your dispatch No. 30, of the 22d ultimo, touching the increased duty levied on alcohol by the Turkish customs authorities at Smyrna,

has been received, and your action in consequence thereof meets with the Department's approval.

I am, &c.,

J. C. BANCROFT DAVIS,
Acting Secretary.

No. 304.

Mr. Frelinghuysen to Mr. Wallace.

No. 32.] DEPARTMENT OF STATE,
Washington, January 7, 1882.

SIR: Adverting to the paragraph in the President's recent message to Congress touching the insecurity of life and property in Turkey, I have now to transmit for your information a copy of a letter from the secretary of the American Board of Commissioners for Foreign Missions, of the 13th ultimo, respecting the reported action of the Turkish Government in rejecting the good offices of British consuls in the behalf of our citizens.

Alluding to the uniform courtesy of diplomatic intercourse which permits consuls of friendly powers to exert good offices in the interest of strangers whose country maintains no consular representatives in regions where such offices are be to availed of, I desire to observe that we are naturally anxious to learn what channel of protection will be available for our citizens in those regions, in view of the Turkish Government having withdrawn its courteous recognition of British good offices in behalf of Americans in places where we have no consular officers. The labors of American missionaries in the domains of the Porte, and their exemplary self-sacrificing devotion to the interests of suffering humanity of whatever creed in times of pestilence and famine, entitle them, it is believed, to the respect and gratitude of the Turkish Government and to the consideration of our own government and people in a peculiar degree. This government has been so often assured of the friendliness of the Porte in respect to our citzens in Turkey that we cannot permit ourselves to doubt that it will continue to be shown in this exigency.

You will accordingly bring this subject to the attention of the minister for foreign affairs and report the result of your application to the Department for its information.

I am, &c.,

FRED'K T. FRELINGHUYSEN.

[Inclosure in No. 32.]

Mr. Clark to Mr. Blaine.

AMERICAN BOARD OF COMMISSIONERS OF FOREIGN MISSIONS,
Congregational House, 1 Somerset street, Boston, December 13, 1881.

DEAR SIR: Major Everett, the British vice-consul at Erzroom, in Eastern Turkey, has notified the missionaries of the American Board resident in Erzroom that an order has been issued by the authorities, as I understand it, to the effect that British consuls have no authority to interfere with the Turkish Government in the protection of foreigners not British subjects. Hitherto Americans resident in that part of Turkey have been protected and their interests cared for by British consuls. The paper communicated to our missionaries is as follows: "As regards any other foreigner who may claim it (British protection), nothing short of the most special circumstances would warrant

the grant of protection, unless the government of the country of which the foreigner applying for protection is a native shall have previously requested and obtained the consent of Her Majesty's Government to such protection being accorded, on the ground that the applicant has no consular authority representing his own country in the locality to whom he can appeal." The Turkish Government is aware of this order and is taking advantage of it, to the very serious annoyance of our missionaries in many ways. I submit the case to the State Department. Will it be practicable for the Department to place American citizens in those portions of the Empire out of the reach of American consulates under the the supervision of British officials for their protection, or will the State Department appoint consuls or vice-consuls to act in its behalf?

I beg to acknowledge the receipt of a letter of December 6 from your Department, informing us of the action of the Department in regard to Ali, the murderer of Dr. Parsons.

Very respectfully, yours,

N. G. CLARK,
Secretary.

No. 305.

Mr. Wallace to Mr. Frelinghuysen.

No. 56.] LEGATION OF THE UNITED STATES,
Constantinople, January 13, 1882. (Received Feb. 6.)

SIR: I have the honor to inclose herewith a copy of a note received from the Porte upon the subject of the new regulations pertaining to the importation of alcohol. The paper is accompanied with the report referred to therein as from the administration of the six contributions, of which a translation is also herewith inclosed.

In the same connection I have the further honor of submitting for your consideration a copy of the reply which I thought best to make to the note above mentioned.

Hoping that it will also meet your approval, I am, &c.,

LEW. WALLACE.

[Inclosure 1—Translation.]

Assim Pasha to Mr. Wallace.

SUBLIME PORTE, MINISTRY OF FOREIGN AFFAIRS,
December 31, 1881.

Mr. MINISTER RESIDENT: I received the note you did me the honor to address to me on the 17th of November last, numbered 85, in relation to a claim of Messrs. Reggio & Belhomme, merchants and American citizens established in Smyrna.

The administration of the six indirect contributions, to which I have communicated this note, has sent me in reply a document, copy of which is herewith inclosed. The explanations it contains will convince you that the claim in question starts from a misunderstanding, and that it is based on an erroneous interpretation of the new regulation on alcohol intended for the manufacture of brandies.

Accept, Mr. Minister Resident, &c.,

M. ASSIM.

[Appendix to inclosure 1—Translation—memorandum.]

It results from the statement of the note of the United States legation, dated November 17, 1881, communicated to the administration of the six contributions by the ministry of foreign affairs, that the claim of Messrs. Reggio & Belhomme is started from a misunderstanding and is based on an erroneous interpretation of the new regulations relating to alcohol used for the manufacture of mastic (rakki).

Article 14 of this regulation does not bear any attempt to the provisions of article 5 of the treaty of commerce of the 13th (25th) of February, 1862. It has not in any

way in view the alcohol which is not intended for the manufacture of mastic. The alcohol as long as it is not transformed in mastic pays solely the custom duties, remaining, however, under the formalities which permit the administration to ascertain of its final use.

Article 14 has in view really the foreign alcohols intended for the manufacture of mastic.

The taxes of the manufacture of mastic are in existence since an immemorial time. Before the promulgation of the law of 1861, that tax was of 20 per cent.; the law of 1861 reduced it to 10 per cent. An imperial irade of the 18th of August, 1878, has increased that tax of half as much for alcoholic drinks as for tobacco, and so brought them to 15 per cent. It is in virtue of that irade, confirmed on the 8th of September, 1881, that the tax of 32 paras, mentioned in article 14 of the new regulation, became 48 paras per oke.

The new regulation of July 22, 1881, instead of aggravating the situation of the manufacturers who used to pay up to that time 60 paras per oke, gives them the benefit of a notable reduction, viz, 12 paras per oke, *provided that the alcohol intended to be turned into mastic pays in advance, and on the moment of its importation, the tax of manufacture.* This facility of payment in advance has been granted on the request of the manufacturers of Constantinople, who were desirous to franchise themselves from every formality and inspection in the storing of their importations of alcohol, and were demanding a reduction of tax.

Messrs. Reggio & Belhomme then had certainly the faculty of getting their barrels of alcohol by simply paying the custom duties of 8 per cent. and by submitting to the provisions imposed by the administration, in order to be able to follow the goods as to collect the tax of 60 paras by whomsoever it shall be due, in case that alcohol should be employed for the manufacture of mastic.

It is more than evident that the merchants who import alcohol for the manufacture of mastic (and nearly all importations have that object in view) have every interest to pay in advance the manufacturing tax, for this very reason, that the manufacturers who finally bear the tax get the benefit of 12 paras per oke. Anyhow, that payment in advance is not indispensable.

Besides it would be well to add that the administration reimburses to whomsoever the taxes already collected in advance on any quantity of alcohol finally to other use than the manufacture of mastic, such as to the use of apothecaries, &c.

As to the amount of 64 paras per oke, claimed by the direction at Smyrna, and interpreted at the end of the aforesaid note, as a penalty inflicted on Messrs. Reggio & Belhomme, it is far from having that character. It comes out as follows:

	Paras.
Custom duties (collected by the custom-house)	16
Manufacturing tax in advance	32
50 per cent. on the amount of tax collected by the imperial iradi	16
Total	64

These explanations will bring the United States legation to the conviction—

1. That in the subject in question there is not any violation of article 5 of the treaty of 1882.

2. That the American alcohol imported by Messrs. Reggio & Belhomme has not been subjected to any arbitrary taxation, and that the regulation of the 22d of July, 1881, does not impose any new tax.

[Inclosure 2.]

Mr. Wallace to Assim Pasha.

LEGATION OF THE UNITED STATES,
Constantinople, January 11, 1882.

EXCELLENCY: I have the honor to acknowledge the receipt of your communication of the 31st December, ultimo, in reply to mine of the preceding 17th November, relative to the new regulations touching the importation of American alcohols. A report upon the same subject from the administration of the six contributions, considerately inclosed for my more definite information, was also received.

While your excellency is pleased to declare the action of the custom officers at Smyrna a mistake attributable to a wrong construction of Article XIV of the new regulations, your note fails to inform me that any corrective instructions have been sent to such officers. I am constrained, consequently, to ask you to be good enough to favor me with a copy of such instructions as have been sent to them. Only by such means can I ascertain how far and in what manner the requests which I had the honor to submit to you in my note of the 17th November have been complied with.

As to the project disclosed on the report of the administration of the six contributions, I am convinced that the assent of my government can never be had to it under cover of a regulation to facilitate the collection of a tax on mastic manufactured in Turkey. It is really a scheme to facilitate the collection of a duty on alcohol in excess of 18 paras the oke. Indeed, excellency, to reduce the matter to the utmost simplicity, you will excuse me for remarking that the abrogation of a treaty provision like that which fixes the duty on American alcohol, and which in such positive language protects both the importer of the article and the purchaser from him against a duty in excess of the fixed rate, to be acceptable to my government, must have some better ground than the making business easy for distillers of rakki in Constantinople.

Under present circumstances it will continue to be my duty to persist in the protest and request addressed to you in my note of the 17th November.

I avail myself, &c.,

LEW. WALLACE.

No. 306.

Mr. Wallace to Mr. Frelinghuysen.

No. 62.] LEGATION OF THE UNITED STATES,
Constantinople, February 1, 1882. (Received February 21.)

SIR: As pertinent to your dispatch, No. 32, January 7, ultimo, relative to the withdrawal of the protection our citizens have habitually enjoyed from British consuls at places in the Ottoman Empire where we had no representatives, I have the honor to inclose for your consideration a copy of a communication received this morning from Lord Dufferin, in which there will be found, I believe, a happy solution of the trouble which it was your purpose to provide against. Accordingly, until I hear from you further, I shall venture to delay addressing his excellency the minister of foreign affairs upon the subject.

If you will permit the suggestion, I have taken pains to inform myself of the views of leading missionaries resident here, and, without meaning any reflection upon the good-will of the Turkish authorities in whatever part, they are of opinion that British protection would be greatly preferred by their brethren in the interior. They say it has always been generously given; they are used to it, and have found it effective.

Your worthy correspondent, Mr. Clark, is mistaken in his idea that the British circular of withdrawal of protection was moved by the Turks. Besides the explanation of the objects of the circular given in Lord Dufferin's note as proceeding from Earl Granville, his lordship has assured me verbally that there was no interference in the matter by the imperial authorities. This, in justice to the latter, as well as to show that the right of the English to give protection at their pleasure, is still unquestioned.

The correspondence alluded to by Lord Dufferin in his first paragraph will be found in my dispatch to the Department, No. 45, dated December 20, 1881.

I have the honor, &c.,

LEW. WALLACE.

[Inclosure in No. 62.]

Lord Dufferin to Mr. Wallace.

CONSTANTINOPLE, *January* 30, 1882.

SIR: In my letter to you of the 19th ultimo I had the honor to inform you that I had submitted to Earl Granville your request that Her Majesty's consular officers in the

Ottoman Empire might continue to afford consular protection to American citizens in places where there are no United States consular representatives.

In reply to my dispatch, Earl Granville has begged me to assure you that Her Majesty's Government, in issuing the circular respecting the restriction of British consular protection to British subjects alone, did not contemplate the withdrawal from your countrymen of the benefits they might derive from the good offices of Her Majesty's consuls. Further, in order to remove all misunderstanding on this subject, Earl Granville has requested me to send fresh instructions to Her Majesty's consuls in the Ottoman Empire, to the effect that although by the circular in question they were desired to discourage as much as possible the granting of British protection to persons who were not British subjects, they may still continue to extend their good offices to foreign missionaries or religious communities in cases of unmerited violence or oppression by the local authorities, provided that no inconvenience has hitherto arisen from such action, and provided that their protection is not carried further than if the case were that of a British subject.

These instructions will accordingly authorize Her Majesty's consuls to continue to give such friendly assistance and support to American citizens as they have been in the habit of giving in places where no American consular authority resides.

I have the honor, &c.,

DUFFERIN.

No. 307.

Mr. Frelinghuysen to Mr. Wallace.

No. 40.] DEPARTMENT OF STATE,
Washington, February 28, 1882.

SIR: Referring again to your No. 45 and your No. 62, I have to say that the President has learned with great satisfaction that Her Britannic Majesty's Government is willing to extend to American citizens in the Ottoman Empire who may find themselves beyond the reach of the protection of a consul of the United States the same measure of protection they have hitherto enjoyed. This will give great satisfaction and sense of security to the missionaries and their friends in the United States.

I will thank you to convey to Lord Dufferin my thanks for the share which he has had in bringing about this satisfactory solution.

I am, &c.,

FRED'K T. FRELINGHUYSEN.

No. 308.

Mr. Wallace to Mr. Frelinghuysen.

No. 71.] LEGATION OF THE UNITED STATES,
Constantinople, March 13, 1882. (Received April 3.)

SIR: I have the honor to inclose a communication received from the Porte yesterday, from which it will appear that the Ottoman authorities are disposed to insist upon a revision of the tariff provisions of the treaty of 1862. The reference to the denouncement of the treaty itself is in terms somewhat vague, but may be understood, I think, as meaning that it is their desire that the revision of the present tariff shall be effected with a view to a correspondence between its terms and those of the treaty in prospect.

I will be happy to have your instructions touching the matter. Until they are received, I shall do no more than acknowledge receipt of the note inclosed.

Very respectfully, &c.,

LEW. WALLACE.

[Inclosure in No. 71.—Translation.]

Assim Pasha to Mr. Wallace.

SUBLIME PORTE,
March 11, 1882.

According to the language of the treaty of commerce concluded between Turkey and the United States of America on the 25th of February, 1862, each of the contracting parties has the right to demand the revision of the tariff one year before the expiration of each period of seven years.

This term, as respects the present period, expires on the 1–13 of this month. The undersigned, minister of foreign affairs of His Imperial Majesty the Sultan, has the honor to apprise the minister resident of the United States of America that the Sublime Porte demands the revision of the tariff at present in force.

As, however, the Sublime Porte has decided to denounce the treaty itself at the expiration of the twenty-first year, it is understood that the revision of the present tariff, which is an integral part of the treaty, shall be made on the basis to be fixed hereafter.

The undersigned begs the minister resident of the United States to be pleased to take notice of the preceding declaration, and takes this opportunity to renew, &c.,

M. ASSIM.

No. 309.

Mr. Wallace to Mr. Frelinghuysen.

No. 72.] LEGATION OF THE UNITED STATES,
Constantinople, March 20, 1882. (Received April 10.)

SIR: In compliance with the directions in your dispatch No. 40, relative to the action of the British authorities in the matter of protecting American citizens in places in the Ottoman Empire where there are no United States consuls, I addressed a note to Earl Dufferin, British ambassador, a copy of which is inclosed.

Lord Dufferin acknowledges the note in such pleasant terms that I make haste to forward a copy of his reply.

I have the honor, &c.,

LEW. WALLACE.

[Inclosure 1 in No. 72.]

Mr. Wallace to Earl Dufferin.

LEGATION OF THE UNITED STATES,
Constantinople, March 18, 1882.

MY LORD: I beg to inform you that the decision of your home authorities to extend protection to American citizens in the Ottoman Empire in localities where there are no consuls of the United States has given the liveliest satisfaction to President Arthur and his official advisers.

In communicating the circumstance the Secretary of State, Mr. Frelinghuysen, instructs me specially to convey to your lordship his thanks for the share which you had in bringing the agreeable result about, and I do so with very sincere pleasure, and glady make it the occasion to renew, &c.

LEW. WALLACE.

[Inclosure 2 in No. 72.]

Lord Dufferin to Mr. Wallace.

CONSTANTINOPLE, *March* 18, 1882.

MY DEAR GENERAL WALLACE: I am very sensible of your kindness in writing to me in the terms you have done. I can have no greater pleasure than in furthering the interests of American citizens in Turkey. As long as I live I shall never forget the kindness I received at the hands of their fellow countrymen of the United States.

Ever yours, and sincerely,

DUFFERIN.

No. 310.

Mr. Wallace to Mr. Frelinghuysen.

[Extract.]

No. 74.] LEGATION OF THE UNITED STATES,
Constantinople, March 21, 1882. (Received April 10.)

SIR: Mr. B. O. Duncan, while visiting the city last week, informed me that the customs officers at Smyrna were continuing to collect a duty upon alcohol in excess of the rate specifically agreed upon under the treaty. Inclosed please find a copy of a note which I will to-day send to the Porte upon the subject.

* * * * * * *

I have, &c.,

LEW. WALLACE.

[Inclosure in No. 74.]

Mr. Wallace to Assim Pasha.

LEGATION OF THE UNITED STATES,
Constantinople, March 8, 1882.

EXCELLENCY: In the correspondence relative to certain new regulations touching the importation of alcohols which were the subject of a protest from this legation, dated November 17, 1881, you were pleased in one of your notes to declare the action of the customs officials at Smyrna in that connection a mistake attributable to a wrong construction of Article XIV of the regulations. Accepting the admission as in good faith, and construing it as equivalent to a promise on your excellency's part that the mistake should be promptly corrected, and the practice of the officials reformed, I permitted the matter to pass out of mind. But now it is with regret that I have to inform you of the receipt of information from Smyrna to the effect that collections upon alcohol from the United States have there gone on under the so-called new regulations without stop or abatement. Upon the presumption that there must be a degree of respect for orders when received by customs officers from the Porte, the inference is scarcely to be avoided that no corrective instructions whatever were in this instance sent to Smyrna; much less were the officials at that place directed to return to collections upon alcohol from the United States within the terms of the treaty, as I had the honor to demand. Should this inference be correct, the failure is certainly liable to be received by my superiors in Washington as an omission hardly distinguishable from an act of unfriendliness which your admission above referred to will tend to make the more pointed.

In confidence that your excellency does not wish such an impression to go abroad, I beg to serve you with an opportunity to demonstrate your good intent, as well as your respect for existing treaties, by renewing the demand made upon you in my note of November 17, above mentioned, that the direction of indirect contributions at Smyrna be required to suspend the further execution of the said article 14 in so far as it has effect upon any article of production or manufacture in the United States of America imported into the empire and possessions of His Imperial Majesty the Sultan; that as respects every article the produce or manufacture of the United States, whether in the hands of a buyer or seller in His Majesty's Empire, the said article 14 be canceled and revoked; and in particular that the duty upon alcohol from the United States be returned and limited to the rate of 16 paras the oke, as fixed by the agreed tariff under the treaty. And that the customs officers at Smyrna may be left without excuse for further persistence in their unlawful collections, as well as that the American consul at that city may have information needful for the protection of the very important interest in question, your excellency will permit me to further demand a copy of the instructions which you may be pleased to issue to the said officials. I consider it proper to notify you also that in a few days I will present to you a statement showing the total amount of duty paid at Smyrna under the so-called new regulations on imported American alcohol, and demand payment of the charges in excess of the duty agreed upon under the treaty. Your excellency will oblige me by an early reply to this communication.

I avail myself, &c.,

LEW. WALLACE.

No. 311.

Mr. Frelinghuysen to Mr. Wallace.

No. 52.] DEPARTMENT OF STATE,
Washington, April 14, 1882.

SIR: Your dispatch of the 13th ultimo, No. 71, relative to the demand of the Sublime Porte for a revision of the tariff provisions of the treaty of commerce of 1862 between the United States and Turkey, has been received.

No specific items or particulars are mentioned in your dispatch or in Mr. Assim's note to you of the 11th of the same month as to what the Turkish Government desires to have embraced in such revision. The Department must, therefore, reserve the expression of any opinion on the subject until more precise information in regard to the nature of the changes desired is obtained.

The question of the termination of the treaty at the end of the twenty-first year, of which the Turkish minister for foreign affairs desires that you should take formal notice, is reserved for consideration until the time mentioned shall have elapsed.

I am, &c.,

FRED'K T. FRELINGHUYSEN.

No. 312.

Mr. Wallace to Mr. Frelinghuysen.

[Extract.]

LEGATION OF THE UNITED STATES,
No. 90.] *Constantinople, April* 21, 1882. (Received May 11.)

SIR: In the matter of collection of excessive duties upon American alcohols in the port of Smyrna, I am constrained to notify you again that there is little, if any, hope of bringing the Porte to an observance of our treaty rights.

Mr. Duncan, United States consul at Smyrna, informed me by note received last Sunday that—

> Mr. Alexander Sidi, an American, and perhaps the largest merchant here of any nationality, expects next week a cargo of 2,100 barrels of alcohol from Lanman & Kemp, one of the leading New York exporters, to be followed soon by other similar cargoes. The difference in duty between 8 per cent. as authorized by our treaty and the 32 per cent. imposed will amount on this cargo alone to between 2,000 and 3,000 Turkish pounds.
>
> He will make the first payment under protest, as I advise him, reclaiming the difference. But can nothing be done to compel the Turkish Government to respect our treaty while it remains unchanged?

Already three notes of protest upon this subject, as strenuous in terms as regard for courtesy would permit, had been addressed to the Porte from the legation, the first one dated November 17, 1881; the second, January 11, 1882; the third, March 18, 1882. Copies of these protests were immediately inclosed to the Department.

On the 31st December, the minister of foreign affairs, Assim Pasha, replied to my note of November 17, declaring the action of the customs

officers at Smyrna a mistake attributable to a wrong construction of a certain article of the new regulations which were the subject of protest.

The other notes have not as yet been answered in writing.

* * * * * * *

Upon receipt of the information quoted from Consul Duncan's letter, I called to see his excellency the minister, hoping he might by this time be able to give me some satisfaction about the business. The visit was on last Tuesday. As an introduction, I told him that an American was sending a large cargo of alcohol to Smyrna, and that it would arrive this or next week, making it a matter of renewed importance that the Article XIV of the new regulations should be canceled, and that the order to that effect should be sent to Smyrna immediately. I requested to know if any action had been taken by the Porte in the matter. He admitted no action had been taken. I reminded him he had admitted in a note to me that the customs officials at Smyrna were under a mistake as to the interpretation of the new regulations sent to them. To that he replied:

> Well, if we recall the regulations, we have no means left to prevent smuggling and the evasion of the tax upon mastic. I think you might lend us that much help.

I told him there was no room to doubt the willingness of my government to lend aid to His Majesty in every way proper, but it could not do so to the sacrifice of the right of its own citizens; that it would be unreasonable if my government consented to stand by and permit another government to take large sums of money out of the pocket of Americans who were claiming its protection.

I reminded him of his failure to answer my objections, both verbal and written; that the last time I spoke to him on the subject, he suggested that I go and see the chief of the customs bureau and speak to him; that upon my objecting to such a course as out of the rule, he had agreed himself to send for that official and get information as to how the question stood. I asked if he had done so. Upon his replying that he had not had time, I told him that by my direction Mr. Gargiulo had called upon that official and received from him the reply that nothing had been ordered to be done in the business, and that he could do nothing without an order from the Porte. I told the minister further * * * that I had come to know of him what was meant to be done; that the only question in the case was the rightfulness of the collection of 48 paras per oke in addition to the 16 paras allowed by the treaty; that he had admitted it was in excess of the provisions of the treaty; that our right and his duty were equally plain. He then said the question was a specialty; that he was not sufficiently advised of it to make an argument with me; but that he wished to inform himself about it, and for that purpose he suggested that I consent to let Mr. Gargiulo meet a Mr. Bertram, one of the chief customs officers here, and talk the business over before him. I asked him when the interview should take place. He said on Thursday (yesterday). I remarked that it was the policy of continuance over again, but that it would not be right for me to refuse. With that I adverted to another subject, and shortly after came away.

Yesterday, at the hour specified, Mr. Gargiulo went to the Porte and met not Mr. Bertram merely, but two other officials, one of them a lawyer of the department.

Instead of canvassing the subject then in presence of the minister, the party were sent into a room by themselves. * * *

The officials representing the minister did not know what they were

there for, and Mr. Gargiulo had to tell them. They insisted upon the proposition that without such a regulation as the one we objected to the government would not be able to prevent smuggling and collect the excise tax upon mastic. Mr. G. answered that the question had reference to the treaty, and he was there to speak of that alone. To be brief, nothing came of the interview except an admission from the lawyer that the treaty was plain, and that the new regulation was not less plainly in violation of it, and that the Turks knew it. In the midst of the talk a messenger appeared and called Mr. Bertram to go to the palace. It was agreed before separation that the party should hold another meeting next Monday.

I have it in mind with respect to the next meeting to direct Mr. Gargiulo to attend it as per appointment, but to inform the gentlemen that he must excuse himself from further conversation upon the subject unless they can show him they are authorized to finally settle all questions involved.

* * * * * *

Possibly you will excuse me if I take up the cargo proposed to be imported by Messrs. Lanman & Kemp and use it to show the effect of the regulations as against our treaty. Their importation will be 2,100 barrels of alcohol (40 gallons to the barrel), on which there would be collectible as follows:

Amount of duties by treaty stipulation	$3,652 00
Amount of excise claimed if paid in advance	10,956 50
Dues to be paid in advance	14,608 50
Amount of overtax if excise be not paid in advance	2,695 60
Total	17,304 10

So that instead of paying $3,652, as stipulated by the treaty of commerce of 1862, the agent of Messrs. Lanman & Kemp in Smyrna must submit to a tax amounting to $17,304.10.

* * * * * * *

I have the honor to again submit the matter with request for instructions.

It is for me to obey your directions, and I will do so with pleasure; at the same time it may not be improper for me to remark that in my judgment nothing further is to be hoped from protests and remonstrances.

Very respectfully,

LEW. WALLACE.

No. 313.

Mr. Frelinghuysen to Mr. Wallace.

No. 56.] DEPARTMENT OF STATE,
Washington, May 12, 1882.

SIR: Acknowledging the receipt of your dispatch, No. 74, of March 21 last, I have to approve your therein reported action in addressing to the Turkish Government a further note in relation to the excessive collections of duty upon American alcohol.

I am, &c.,

FRED'K T. FRELINGHUYSEN.

No. 314.

Mr. Frelinghuysen to Mr. Wallace.

No. 57.] DEPARTMENT OF STATE,
Washington, May 15, 1882.

SIR: Your No. 90, of the 21st ultimo, in further relation to the excessive duty levied upon American alcohol in the port of Smyrna, has been received and read with interest.

I am constrained to ask, however, before the Department can proceed in the sense of your application, that you will cause it to be furnished with proof touching Mr. Alexander Sidi's citizenship. It is desirable to know whether he is a naturalized or native born citizen, and if the former, where and when did he obtain his papers; the originals or a certified copy thereof he should transmit hither. This request is not made to question the correctness of Mr. Consul Duncan's statement that Mr. Sidi is an American, but merely that the Department may be fully advised before giving you positive instructions in his case respecting our treaty rights with the Government of Turkey.

Meanwhile your action is approved.

I am, &c.,

FRED'K T. FRELINGHUYSEN.

No. 315.

Mr. Wallace to Mr. Frelinghuysen.

No. 96.] LEGATION OF THE UNITED STATES,
Constantinople, June 6, 1882. (Received June 26.)

SIR: A note verbal came to the legation under date of 3d June containing a sweeping interdiction against salted meats from America, including lards. There is not much direct importation of the prohibited articles; wherefore, besides that reflection, there is consolation in the facts that nearly, if not quite, nine-tenths of the salted meats consumed in Turkey will continue to be the American product under some foreign brand, and that whether first marketed in France, England, or Germany, the original dealer is not likely to be deprived of his profits by proclamations such as is here inclosed and translated.

Construing the circular as one more to the several blows recently aimed at American products in this region, it seemed best to notice it with an immediate protest, a copy of which is also inclosed.

Very respectfully, &c.,

LEW. WALLACE.

[Inclosure 1 in No. 96.—Translation.]

Said Pasha to Mr. Wallace.

SUBLIME PORTE, MINISTRY OF FOREIGN AFFAIRS,
June 3, 1882.

Circular. Note verbal.]

The ministry of foreign affairs has the honor to inform the legation of the United States of America that the measure of interdiction which strikes the introduction of salted pork meats from America is also extended to the ham and lard of the same source, no matter by what way these articles are imported in Turkey.

The imperial ministry begs of the legation of the United States of America to kindly bring what precedes to the knowledge of his citizens.

[Inclosure 2 in No. 96.]

Mr. Wallace to Sayd Pasha.

UNITED STATES LEGATION,
Constantinople, June 5, 1882.

EXCELLENCY: I beg to acknowledge receipt of the note verbal from the Sublime Porte, dated June 3 instant, in which you have been pleased to inform me that the measure of interdiction against the introduction of salted meats from America is extended to hams and lard, regardless of the form of their importation into Turkey.

Your excellency will pardon an expression of surprise at the action thus indicated, announced, as it is, without a reason given. If reference is had to the treaty between the powers, it appears to me arbitrary in the highest degree. While it continues in its present form it cannot but be construed as a discrimination against an important article of American manufacture, and peculiarly in violation of treaty rights, for which reasons it is my duty to earnestly protest against its execution. At the same time to open a way to an accommodation of the points presented, I will esteem it a favor if you will give me the reasons which have induced the Porte to resolve upon the interdiction, and give them to me before execution of the measure is entered upon. Not impossibly the operative causes may be explained away.

I avail myself, &c., &c.,

LEW. WALLACE.

No. 316.

Mr. Wallace to Mr. Frelinghuysen.

[Extract.]

No. 98.] LEGATION OF THE UNITED STATES,
Constantinople, June 9, 1882. (Received July 3.)

SIR: Consul-General Heap has referred to me three communications which I inclose, one from Mr. Alexander Sidi, another from Messrs. Iasigi & Co., by their agents Jacob Balladur & Co., and another from Messrs. Reggio & Belhomme, described as agents of MM. Laforme & Frothingham. Iasigi & Co. and Laforme & Frothingham are of Boston, Mass. Sidi, Reggio & Belhomme, and Balladur & Co. are merchants resident and doing a good business in Smyrna.

The communications, as you will perceive, all have relation to the same subject—a scheme to impose an additional charge of 8 per cent. upon petroleum. If carried into operation the result will be to burden the article with 16 per cent., exactly double the rate authorized by the treaty between Turkey and the United States.

In protesting against the proposed measure, I availed myself of the opportunity to group with it the other infringements of American rights now in question between the governments, viz, the extra charges upon alcohol and the prohibition of salted meats, and to submit to the new minister a summary of the privileges, in my opinion, clearly deducible from article 5 of the treaty of 1862.

* * * * * * *

I have, &c.,

LEW. WALLACE.

[Inclosure 1 in No. 98.—Translation.]

Mr. Sidi to Mr. Griffith.

SMYRNA, *May* 24, 1882.

SIR: The undersigned, Alexander Sidi, a citizen of the United States of America, has the honor to state as follows:

In the month of July, of the year 1873, the local authorities being justly preoccupied of the danger existing in the storage of a large quantity of petroleum in the store-houses of the city, desired to remedy this practice by submitting this sort of business to a special regulation. His excellency Vely Pasha, then governor-general of the vilayet of Aidin, has assembled at the Corak to that effect MM. all the consuls of the foreign powers, and the regulation, which you must have seen, has been published with the approval of the Idaré Medjiliss of this vilayet.

It results from this regulation:

1st. That the merchants dealing in petroleum must have a store-house for this article at two kilometers distance from the town of their choice.

2d. That the local authorities reserve for itself the right of controlling the daily importation of petroleum into the town, that this quantity should not exceed the daily want of consumption.

The undersigned, who is engaged in the petroleum business in this town, has been obliged, therefore, in order to comply with the regulations in force, to hire store-houses in Holka Bonner.

The said regulation on the commerce of petroleum exists since 1873. It is therefore in force in Smyrna since nine years, and from the fact that during all this time it has not given rise to any complaint it is evident that the formalities resolved upon gave satisfaction to all interests concerned in the question.

I am informed, however, that the regulation now existing, so just and so equitable, is on the point of being modified so as to injure the interests of commerce and commit the security of the town.

The Idaré Medjiliss of Smyrna is disposed to grant to a firm from Constantinople the privilege of establishing a single and unique store-house, for petroleum in Smyrna, forcing thus the merchants to abandon their own store-rooms, established in conformity with the provisions of the regulations of 1873.

The grantee of the new store-house for petroleum would collect a tax of about 8 per cent., making a return of 1 per cent. to the municipality of Smyrna, and the merchants would be obliged to pay this tax of about 8 per cent. when these same expenses at present in the stores of the undersigned amount scarcely to 2 per cent.

Should the above-mentioned decision of the Idaré Medjiliss be put into execution the undersigned is convinced that not only it will be contrary to equity and to the treaties of commerce now in force between the Sublime Porte and the foreign powers, but that it will also constitute a danger for public security. It is contrary to equity, as the undersigned being forced to take the measures in accordance with the regulation of 1873, he cannot abandon them and make use of foreign store-houses, incurring tax four times superior to his present expenses.

It is contrary to the treaties of commerce, which reject all other tax except that of the custom-house duty of 8 per cent. on the merchandise imported.

It is contrary to commerce, which will not be able to insure its petroleum against the risks of fire, the good insurance companies refusing unlimited risks on petroleum which would be concentrated in a single store-house.

Besides, the commerce of petroleum in our city, burdened with new taxes, will see its customers from the islands and towns of the sea-coast supply themselves from the places of Syra and Piræus, where they will be able to procure this article in transit with better conditions than in Smyrna, and commerce would be thus deprived of this important outlet to the advantage of the places in Greece.

It is contrary to public security, because the fire of a unique store-house would constitute a much greater danger than the fire of private store-houses, dispersed at different points, and always at two kilometers from the town.

It is, therefore, as much in the interest of the town of Smyrna, in general, as in that of the merchants who obey the regulations prescribed with a view to public security that the undersigned protests against the decision taken by the Idaré Medjiliss of this vilayet to establish a single and unique store-house for petroleum at Smyrna, to the prejudice of the merchants dealing in the commerce of this article.

They beg you, Mr. Consul, to be so kind as to take their just demands into consideration, and to grant them the support of your efficient intervention.

1st. Near his excellency Ali Pasha, governor-general of the vilayet of Aidin, for the maintenance of the regulation established in 1873, on the commerce of petroleum, and the rejection of the decision of the Idaré Medjiliss.

2d. Near the minister of the United States at Constantinople, that the government of His Imperial Majesty the Sultan should refuse such a concession to a private individual to the detriment of commerce and of the public security of the town.

Being confident in your enlightened solicitude for all that concerns the protection of the legitimate rights of American interests, the undersigned begs you, Mr. Consul, to be so kind as to accept the acknowledgment of his profound respect, with which he has the honor to be, &c.,

ALEXANDER SIDI.

[Inclosure 2 in No. 98.—Translation.]

Messrs. Balladur & Co. to Mr. Griffith.

SIR: We, the undersigned, Jacob Balladur & Co., merchants, established and residing in Smyrna, have the honor in our quality of representatives in this city of MM. Iasigi & Co., American merchants, established and residing in Boston, No. 30 Kilby street, by virtue of a regular procuration to bring to your notice, very respectfully, that the Ottoman Government intends to burden the importation of petroleum into Smyrna with a supplementary tax of 8 per cent. which is disguised under the name of warehouse duty, independently, of course, of the custom-house duty equally of 8 per cent.

In fact the authorities of Constantinople, on the recommendation of Idaré Medjiliss of our city, would be on the point of granting to a private individual the privilege or monopoly to hold a unique store-house, where all the merchants of our city would be forced to deposit petroleum and to pay a tax of 8 per cent.

Conforming ourselves, therefore, with the provisions of the III article reproduced below, of the regulation of 13th (25th) October, 1873, made by the local authorities with the assistance and adoption of the consular body of this city, we have constructed since that time large stone built warehouses ad hoc, where we deposited the petroleum which our above-mentioned principals send us.

During the long period of nine years no misfortune has taken place, even the least accident, to authorize or excuse the modification of the regulation now in force. On the contrary, the dispositions being practical and wise and in conformity with the spirit of the general regulation of the month of December, 1874, concerning the commerce of petroleum, have, besides, the advantage of conciliating at the same time the public and private interests, and specially not to injure the spirit or the letter of the capitulations and of the international treaties of commerce, according to the terms of which nobody in Turkey has the right to collect under any title or any pretext whatever another duty, except the unique custom-house duty of 8 per cent.

To oblige us to part against our will with our petroleum in order to intrust it to the guard of an individual or his employés, whoever they may be, to force the merchants to any and supplementary tax by obliging us to pay, under a special title or the pretext of warehousing, a tax of 8 per cent., when our expenses in relation thereto scarcely amount at the most to 1½ per cent., this is according to us a violation of the spirit and the letter of the capitulations and treaties of commerce existing between the foreign powers and the Sublime Porte.

It is for the safeguard of the rights and interests of our above-mentioned employers that we take respectfully the liberty, in this quality, to address to you these presents in order to beg you to be so kind as to submit them urgently to his excellency the minister of the United States of America at Constantinople.

Being confident in his constant solicitude for the defense and the protection of the rights and legitimate interests of his fellow-citizens, we are sure that he will kindly think promptly of such measures as this grave and prejudicial state of things will suggest to him in order to stop the realization thereof, protesting especially, in the most formal and energetic manner, against any payment of a supplementary tax under any pretext and any title whatever, it may be, and rendering the Ottoman Government responsible for all damages foreseen or not, and which would result therefrom.

Begging you, sir, to kindly furnish us with a legalized copy of these presents, we have the honor, &c., &c.,

IASIGI & CO, *of Boston.*
JACOB BALLADUR & CO.

Article third of the regulation of 13th (25th) October, 1873, published in the Impartial of 27th October, 1873:

ARTICLE 3.—All petroleum contained in the vessel shall be deposited in a special store-house to the choice of the importer, provided that this store-house should be two kilometers distant at least from the town and one kilometer at least from the villages.

[Inclosure 3 in No. 98.—Translation.]

Messrs. Reggio & Belhomme to Mr. Griffith.

SMYRNA, *May* 22, 1882.

SIR: The undersigned, Reggio & Belhomme, agents of MM. Laforme & Frothingham, of Boston, Mass., citizens of the United States of America, have the honor to state as follows:

In the month of July, of the year 1870, the local authorities considering justly the danger existing in the storage of a large quantity of petroleum in the warehouses of the town, desired to remedy this practice by submitting this sort of business to a special regulation. His excellency Vely Pasha, then governor-general of the vilayet of Aidin, has assembled at his corak, to that effect MM, the consuls of foreign powers and the regulation, copy of which is inclosed, has been published with the approval of Idaré Medjiliss of this vilayet.

It results from this regulation:

First. That the merchants engaged in the petroleum business must have a store-room of their choice, for this merchandise, at two kilometers distance from the town.

Second. That the local authority reserves for itself the right of controlling the daily importation of petroleum into the town, that this quantity should not exceed the daily want of consumption.

The undersigned, who are engaged in the petroleum business in this town, have been obliged therefore, in order to comply with the regulation in force, to have stores constructed immediately on the coast of Cordelio for their account and for that of MM. Laforme & Frothingham, of Boston, the cost of which amounts to 100,000 francs.

The said regulation on the commerce of petroleum exists since 1873. It has, therefore, been in force in Smyrna during nine years, and by the fact that it has not given rise to any complaint during all this time, it is evident that the formalities resolved upon gave satisfaction to all interests concerned in this question.

We are, however, informed the regulation now existing, so just and so equitable, is on the point of being modified in such a manner as to injure the interests of commerce and commit the security of the town. The Idaré Medjiliss of Smyrna is disposed to grant to a firm of Constantinople, the privilege of establishing a sole and unique store-house of petroleum in Smyrna, and oblige in this way the merchants to abandon their own store-rooms which were established in conformity with the requirements of the regulation of 1873. The grantee of the new store-house would collect a tax of about 8 per cent. making a return of 1 per cent. to the municipality of Smyrna, and the merchants should be obliged to pay this tax of about 8 per cent. when actually these same expenses amount only to 1 or 1½ per cent.

Should the above-mentioned decision of the Idaré Medjiliss be put in force, the undersigned are convinced that not only it will be contrary to equity and to the existing treaties of commerce between the Sublime Porte and the foreign powers, but that it will also constitute a danger for public security.

It is contrary to equity, because the undersigned being obliged by the regulation of 1873 to construct store-houses for petroleum for their own usage, costing them 100,000 francs, cannot abandon them and make use of foreign store-houses incurring a tax eight times superior to their present expenses.

It is contrary to the treaties of commerce, which reject all other tax except that of the customs duty of 8 per cent. on goods imported. It is contrary to commerce, which will be unable to insure always its petroleum against the risks of fire, the good insurance companies refusing unlimited risks on petroleum which would be concentrated in a single store-house.

Besides, the petroleum business of our time, burdened with new taxes, will see its customers from the islands and the towns of the sea-coast to supply themselves from the places of Syra and Piræus, where it will be able to procure this article in transit with better conditions than in Smyrna, and business would be thus deprived of this important outlet to the advantage of the places of Greece.

It is contrary to public security, as the fire of a unique store-house would constitute a much greater danger than the fire of private store-rooms dispersed at different points and at two kilometers' distance from the town.

It is, therefore, as much in the interest of the town of Smyrna in general, as in that of the honest merchants who obey the regulations resolved upon with a view to public security, that the undersigned protest against the decision arrived at by the Idaré Medjiliss of this vilayet, to establish a single and sole store-house of petroleum in Smyrna to the detriment of the merchants dealing in this article.

They beg you, Mr. Consul, to be so kind as to take their just complaint into consideration, and to grant them the support of your efficient intervention.

First. Near his excellency Ali Pasha, governor-general of the vilayet of Aidin, for the maintenance of the regulation promulgated in 1873 on the commerce of petroleum, and the rejection of the decision of the Idaré Medjiliss.

Second. Near the minister of the United States at Constantinople, in order that the government of His Imperial Majesty the Sultan should refuse such a concession to a private individual to the detriment of commerce and of the public security of this city.

Being confident in your enlightened solicitude for all that concerns the protection of the legitimate rights of American interests, the undersigned beg you, Mr. Consul, to be so kind as to accept the acknowledgment of their profoundest respect, with which they have the honor to be, &c., &c.,

REGGIO & BELHOMME.

[Appendix to inclosure 3 in No. 98.—Translation.]

VILAYET OF AIDIN.

REGULATION CONCERNING THE IMPORTATION OF PETROLEUM IN SMYRNA.

Considering the proceedings of deliberation taken by his excellency Vely Pasha, governor-general of the vilayet of Aidin and MM. the foreign consuls residing at Smyrna the 29th June–11th July, 1870, from which it results that the store-house of a large quantity of petroleum in the town of Smyrna constitutes an imminent danger for the city, and that it is urgent to think about the means for making this danger disappear:

That it was necessary to remove immediately from the town the petroleum existing therein, and forbid the direct introduction of any other petroleum which may arrive in future;

That it was necessary, in order to obviate the above-mentioned inconveniences, to store all petroleum arriving in future at Smyrna in a remote place from the town:

A commission has been charged then to find a convenient place for the storage of petroleum; but this mission having, unfortunately, remained without execution on account of the difficulties that the choice of such a locality presented conciliating the interests of the different importers, and his excellency Sureya Pasha, being justly preoccupied of this state of things which was prolonged until now, and considering the urgency, after having consulted with the council of the administration of the vilayet, has resolved and resolves the following:

ARTICLE FIRST.

Every vessel arriving in the harbor of Smyrna loaded with petroleum must anchor outside of the other vessels which are anchored about the harbor, and stop at the place which will be indicated to it by the harbor-master.

ARTICLE SECOND.

As soon as the vessel shall be at anchor in this way it will receive on board an officer of the municipality, who will remain on board until the complete discharge of the petroleum. The salary of the said guard, fixed at nine piastres (two francs) a day, is to the charge of the captain of the vessel.

ARTICLE THIRD.

All the petroleum found in the vessel shall be landed in a special store-house at the choice of the importer, provided that this store-house should be distant two kilometers at least from the town and one kilometer at the minimum from the village.

It is allowed, however, to transship all or a portion of the cargo of petroleum on board another vessel for exportation. The vessel in which the petroleum would be transshipped shall be subject to the precautionary measures established in Article 1, as long as it shall remain in the harbor of Smyrna.

ARTICLE FOURTH.

The vessel loaded with petroleum shall not be allowed to change the anchorage which was assigned to it by the harbor-master until the full discharge of the petroleum.

ARTICLE FIFTH.

The sale of petroleum shall not be made in the city, but in stone-vaulted stores.

The approximate consumption of petroleum in the town of Smyrna being about a thousand cases (25,000 okes) per week, it is not allowed to keep a greater quantity at a time in town. And until a distribution of this quantity be made by the municipality

among the different stores authorized to sell, it shall not be permitted to each seller to have more than twenty-five cases of petroleum in his store. It is prohibited to have many retail shops in the same khan, or in one same street. It shall be permitted, however, to the bocols (grocers) and actors (chandlers) of the quarters which are distant from the retail shops to have one or two cases of petroleum in their shop, for the facility of the indigent families, in order to sell them at retail.

ARTICLE SIXTH.

Every retail dealer in petroleum authorized by law shall be furnished with a permit from the municipality, indicating his name as well as the quarter and the number of his shop. In case of a change of place, he must exchange his permit with another, which shall be delivered to him for his newly-situated shop.

ARTICLE SEVENTH.

Every surplus of cases of petroleum indicated in Article 5 which would be found in the stores or retail shops; all petroleum which would be stopped in transit either by land or by sea, for being introduced into the town without permit, shall be immediately seized and confiscated.

ARTICLE EIGHTH.

The present regulation shall be put into execution in all the vilayet of Aidin.

ARTICLE NINTH.

The municipality and the local police are charged with the strict execution of all the provisions contained in the present regulation.

Done in Smyrna, the 13th (25th) October, 1873.

[Inclosure 4 in No. 98.]

Mr. Wallace to Said Pasha.

LEGATION OF THE UNITED STATES,
Constantinople, June 7, 1882.

EXCELLENCY: For the purposes of the communication which I think it well to make to the end that a better understanding may be had of the commercial rights asserted for citizens of the United States of America, I respectfully invite your attention to the following quotations taken from Article V of the treaty of commerce between our respective governments of 1862:

"His Imperial Majesty further engages that, save as hereinafter excepted, he will not prohibit the importation into his dominions and possessions of any article the produce and manufacture of the United States of America, from whatever place arriving, and that the duties to be imposed on every article the produce or manufacture of the United States of America imported into the empire and possessions of His Imperial Majesty the Sultan shall in no case exceed one fixed rate of 8 per cent. ad valorem, or a specific duty, fixed by common consent, equivalent thereto. * * * * If these articles, after having paid the import duty of 8 per cent., are sold either at the place of their arrival or in the interior of the country, neither the buyer nor the seller shall be charged with any further duty in respect to them," &c.

A reading of the text quoted discloses four points which would seem to be impossible of contradiction or evasion:

1. His Imperial Majesty is solemnly engaged not to prohibit the importation into his dominions and possessions of any article the produce and manufacture of the United States of America, from whatever place arriving, except tobacco and salt, they being the exceptions reserved in Article XIV of the treaty.

2. His Imperial Majesty is also solemnly engaged not to impose on any article the produce or manufacture of the United States of America, imported into his empire, a duty in any case exceeding one fixed rate of 8 per cent. ad valorem, or a specific duty, fixed by common consent, equivalent thereto.

3. His Imperial Majesty is further solemnly engaged that, if such articles (the produce or manufacture of the United States of America), having once paid the import duty of 8 per cent., are sold, either at the place of their arrival or in the interior of the country, neither the buyer nor the seller shall be charged with any further duty in respect of them.

4. The engagements so defined, in the nature of guaranty s by His Imperial Majesty, have relation to the articles imported, not the citizenship or nationality of the person importing them. Enough always that the articles are the produce or manufacture of the United States of America.

These deductions, I beg to say, are not presented to your excellency because it is thought they are unknown to you, but to bring more clearly to your view the matters of complaint subjoined.

The note verbal from the Sublime Porte, No. 25, dated June 3, 1882, contains an interdiction absolute, and without pretense of justification, against the importation of salted meats of American manufacture. How, excellency, does that interdiction comport with the engagement of His Majesty first above given?

Then there are the new regulations under which your customs officers in Smyrna are collecting upon American alcohol, not 16 paras the oke, that being the amount specifically agreed upon as the equivalent of 8 per cent., but forty-eight paras the oke, the conditions being such that it is possible to carry the levy to ——, and even —— paras.

How, permit me to ask, do such regulations agree with the provision of the treaty second above given?

This, it must be added, has been going on against protest, and with the knowledge of the Sublime Porte, for quite —— months; your predecessor once declared the exaction a mistake on the part of the customs officers; yet, though repeatedly besought to correct it, he did nothing. The unlawful collection is still going on.

And now I am called upon to present you another measure proposed of the same character relating to petroleum, an item, as your excellency knows, of vast consumption in Turkey, and almost exclusively an American product. In 1870 the practice of petrolem dealears in Smyrna was to store their stocks on hand in the city. His excellency, the then governor-general of the vilayet of Aidin, discerning the danger from fire incident to the usage, required the merchants to provide themselves with houses for safer keeping outside the city limits at least two kilometers. This was done with consent of dealers, foreign consuls, and the Idaré Medjiliss, and upon compliance by the dealers became a contract, they on one part, the government on the other. Since 1873 the regulation has subsisted satisfactorily to all concerned. It would appear, however, that the present Idaré Medjiliss has other views. That body had decided to grant to a person or firm the privilege of establishing a general storehouse for petroleum in the city, and require merchants and dealers in the article to give up storage in the houses prepared by them under the regulation of 1873, and resort to the new one. No option is to be allowed. In a tax or charge for storage of 8 per cent. the enterprising grantees of the privilege are to find a profit of 7 per cent. and the Idaré Medjiliss 1 per cent. The same scheme, I am informed, is to be set at work in Constantinople, and probably in the empire generally. The effect will be to exactly double the rate of charge permitted by the treaty. With His Majesty's engagements in view, how, excellency, can the Sublime Porte permit a thing so plainly unlawful to go into execution?

In protesting against the three measures referred to, it may serve well to remark that I have grouped them together that your excellency may the better perceive the unpleasant suspicions to which their further continuance will certainly lead. A very singular coincidence indeed, that interdictions and oppressive duties should be the order of the day against articles so necessary, some to His Majesty's subjects, others to foreigners resident in His Majesty's dominions, and at the same time of chief supply from America! Whether the hostility proceeds from the Sublime Porte or at the instance of competitors in trade, the effects upon American industries and rights are the same. My government is bound to notice them.

I avail myself, &c.,

LEW. WALLACE.

No. 317.

Mr. Frelinghuysen to Mr. Wallace.

No. 63.] DEPARTMENT OF STATE,
Washington, June 14, 1882.

SIR: Adverting to previous correspondence upon the subject, I have now the pleasure to inclose, for your information, a copy of a note* recently received from the British minister at this capital, covering a copy

* For this inclosure see Document No. 151, *ante*, page 314.

of a circular note addressed by Her Britannic Majesty's ambassador at Constantinople to Her Majesty's consular officers in the Ottoman Empire, defining the grounds upon which they shall extend protection to our citizens in Turkey in quarters where we maintain no consular representatives.

I am, &c.,

FRED'K. T. FRELINGHUYSEN.

No. 318.

Mr. Frelinghuysen to Mr. Wallace.

No. 68.] DEPARTMENT OF STATE,
Washington, June 29, 1882.

SIR: Your dispatch No. 96, of the 6th instant, inclosing copy of your protest in reply to the note verbal of the Ottoman Government, prohibiting the importation therein of American salt meats, has been received, and your timely action is approved.

I am, &c.,

FRED'K T. FRELINGHUYSEN.

No. 319.

Mr. Wallace to Mr. Frelinghuysen.

[Extract.]

No. 107.] LEGATION OF THE UNITED STATES,
Constantinople, July 11, 1882. (Received August 2.)

SIR: * * * * * * *

Through Mr. L. Oliphant I had an account of the Jewish exodus from Russia, and of the misery the refugees were undergoing in the towns north of this. Some of them having reached Constantinople, were starving in the streets. My sympathy was naturally excited in their behalf.

On the 6th of June last two gentlemen were brought to the legation, and upon introduction presented a paper, of which a copy is inclosed. You will perceive that it is a petition craving assistance for their co-religionists in the Kingdom of Roumania; that the subscribers represent themselves as delegates acting for forty-nine local committees in their country; and that the point they wished to gain, through my services unofficially rendered, was the privilege of colonizing in such districts of Syria as contained localities available for the purpose. They seemed respectable men and very much in earnest. Mr. Oliphant was personally acquainted with them, and he recommended them to be what they seemed. The interview resulted in my telegraphing for permission to give them and their people my good offices in obtaining for them, if possible, permission to colonize themselves in Turkey.

Mr. Oliphant and a Mr. Alexander, both respectable gentlemen, were the agents of the movement in Constantinople. They met me, by my invitation, at the legation. A discussion of the best mode of procedure was had, and an agreement reached. I was to visit the Porte and use

my best efforts to get the privilege sought; having obtained it, my connection with the business was to end; they were to manage the immigration and the settlement of the colonists.

Agreeably to this arrangement, I visited the minister of foreign affairs, who informed me that the matter had been before His Majesty's council of ministers, which had decided affirmatively that the Jews from whatever parts could come and settle in Turkey; that there was a general law of immigration in force which must be taken for the guidance of such as chose to come; that they could come when they pleased, and would be settled in groups of two hundred or two hundred and fifty families, that they could settle on any unoccupied lands in Mesopotamia, about Aleppo, or in the regions of the Orontes River; that they could not establish themselves in Palestine; that the firman of the Sultan was unnecessary, for, having once approved the law, he could not be called on to do so again; that every colonist was simply bound to become an Ottoman subject.

This, you will readily see, covered all my part of the business. The refugees could come immediately; the lands at their service were good; the law was liberal and encouraging; if they behaved themselves they would do well. I made report to Messrs. Oliphant and Alexander and discharged myself from the connection.

A little later, when the affair had an appearance of taking on extraordinary proportions, possibilities of trouble to the immigrants presented themselves, and I thought it safer to have the worthy minister of foreign affairs put his replies to me in writing. With that view, I addressed him a note, of which a copy is inclosed. In an interview, the under-secretary (Mr. Artin Effendi) assured me that as the immigration would be under the law, no further assurances were necessary; and as that seemed reasonable, I was satisfied, and did not press an answer to my communication. I make an inclosure of the note because it sets out the minister's replies on nearer approach to exactitude.

For your more perfect understanding of the scheme as it now stands, and to enable you to answer questions upon the subject, should such be addressed to you, I take the liberty of making an inclosure of a copy of the Turkish law of immigration (translated).

In conclusion, there is nothing to prevent all the Israelites on the earth from settling in Asiatic Turkey. They shall not settle in Palestine—that is the only prohibition.

I have, &c.,

LEW. WALLACE.

[Inclosure No. 1 No. 107.]

Messrs. Ascher & Weinberg to Mr. Wallace.

CONSTANTINOPLE, *June* 6, 1882.

YOUR EXCELLENCY: We, the undersigned delegates of the central committee of Jewish emigration in Roumania, representing forty-nine local committees, beg to approach your excellency for the purpose of craving your assistance and support in behalf of our oppressed coreligionists who are suffering under legal disabilities in the kingdom of Roumania, which render it impossible for them any longer to find means of subsistence in that country, where many thousands are reduced to starvation.

Sufficient funds have been subscribed by the Jewish committees in Roumania to enable many colonies to be formed in the dominions of His Majesty, and we would crave your excellency kindly to procure permission and liberty for our coreligionists to settle in any of the Mutessarafliks of Syria wherever there are available localities.

The points which we desire to know are, viz: Whether Jews on becoming Turkish subjects will be permitted to settle in the waste lands of the Vilayet of Syria, excluding

the Pashalik of Palestine free of charge in groups of not more than five hundred families, and whether they will also be permitted to purchase lands and settle on them in agricultural communities.

2d. Whether, if so, they will be exempt from taxation for the next five years.

3d. Whether they will be permitted to construct roads to the nearest large town or seaport.

Some of these societies are wealthy, possessing in some instances a considerable capital, and their members are possessed by no other desire but that of developing the resources of the country and occupying themselves as peaceable citizens.

While only especially representing our Roumanian coreligionists, we would also venture to remind your excellency that owing to the daily recurrence of prosecution and disasters of the most fearful description our brethren in Russia are living in a state of panic-stricken suspense. In many instances they have realized all their worldly goods and abandoned their occupation, not anticipating any check to their desire to emigrate into Turkey, and are now rapidly consuming the capital with which they had hoped to start in their new home.

The matter has become one of the most serious and urgent necessities. Hundreds of thousands of people are awaiting with the utmost anxiety information upon which they can safely act, and your excellency and the great and the philanthropic nation which you represent would be performing an act of the highest benevolence and charity if, owing to your kind intervention in their behalf, they may be relieved from their present dread and extremity, and leave countries in which they have nothing but ill-treatment to anticipate, for one where the experience of their coreligionists has proved they may expect peace and protection, and where they would thankfully become loyal and patriotic subjects of His Magnanimous Majesty the Sultan.

President of the committee for Bucharest Jewish emigration.

M. ASCHER.

Founder and member of the committee in the Kingdom of Roumania.

MOYER WEINBERG.

[Inclosure 2 in No. 107.]

Mr. Wallace to Said Pasha.

LEGATION OF THE UNITED STATES,
Constantinople, June 13, 1882.

EXCELLENCY: In the interview which I had the honor to have with you yesterday, I begged permission to express my great personal interest in measures for the relief of refugee Jews congregating in the north and to inquire, purely in the way of good offices and unofficially, if His Majesty or the Sublime Porte would be charitably disposed to allow refugee Jews to come into Turkey, and colonize on the public lands.

You were good enough to inform me that the subject had been under consideration by His Majesty's Council, which had decided to allow colonization by those people, provided they did not settle on lands within the limits of Palestine. I asked then in what localities they would be permitted to settle. You replied they might settle about Aleppo and in Mesopotamia, and the region of the Orontes River. I then asked if they would be suffered to come in groups. You replied in groups of two hundred or two hundred and fifty houses, by which I understood families. I inquired if it would be necessary to have an imperial firman, or a permit in form from His Majesty before entering upon the movement of the people. You replied that there was a law already existing which covered the immigration proposed; that as the law had received His Majesty's sanction no further permit would be required from His Majesty. To my final inquiry, if I was at liberty to notify the parties who would interest themselves in the matter as active managers that they could begin the movement immediately, you said there was no objection to my doing so.

Now, excellency, should the movement take on the large proportions I anticipate, there would be not a little responsibility attaching to me; and to relieve me of that, and enable the immigration to be conducted strictly according to the wishes and decision of His Majesty and the Sublime Porte. I have the honor to submit if it would not be better that you communicate your replies to me in writing, and in convenient form, that I may in turn communicate them to the persons to be intrusted with the active management. Would you allow a further expression, it is, in my judgment, especially important that the conditions which you desire to impose upon the colonization should be stated with explicitness. Such, for instance, as what the Sublime Porte holds to be the limits of Palestine, and the localities outside those limits to which you prefer the movement should be directed.

Your excellency will of course understand this, and my whole connection with the affair, to be unofficial.

It would be a great kindness to the people in question, if your excellency would favor me with the communication requested at your earliest convenience.

I avail myself, &c., &c.,

LEW WALLACE.

[Inclosure 3 in No. 107—Translation.]

COLONIZATION IN TURKEY BY FOREIGN FAMILIES.

No. 6.

Conditions established by the imperial government with regard to the colonization in Turkey of families coming from foreign countries who would like to settle on becoming subjects of the Ottoman Empire.

ARTICLE 1. The colonists will first take an oath to be always faithful to His Majesty the Sultan and accept the conditions of subjects of the empire without the least reserve or restriction.

ART. 2. They will conform to the actual and future laws of the empire.

ART. 3. In common with other subjects of the empire, colonists will be free from all kind of hinderance in the exercise of the religion they profess, and they will enjoy without any distinction the same religious privileges as all the other classes of subjects of the empire. If in the localities that may be given to them by the government for their installation there be any chapels of their rite and these in sufficient number, they will perform their devotions in them, but if they are to form new villages, they will apply for and obtain of the imperial government the permission to erect such chapels as they may need.

ART. 4. In the provinces of the empire that will be found suitable for their installation there will be chosen from government lands the most fertile and most healthy tracts, and to each colonist will be granted such a portion of land as may be suitable to his means, to enable him to carry on agriculture or any other trade.

ART. 5. The colonists being established on government lands, which will be given them gratuitously will be exempt from all land or personal taxation for six years, if they are established in Roumelia, and for twelve years if they are established in Asia.

ART. 6. In like manner the colonists are exempt from military service or its equivalent in money, those in Roumelia for six years, those in Asia for twelve years.

ART. 7. After the expiration of these terms of exemption the colonists will be subjected to all taxes and imposts on the same footing as the rest of the subjects of the empire.

ART. 8. The colonists will not be allowed to sell the land given to them gratuitously by the government, excepting after a lapse of at least twenty years.

ART. 9. Those who before the expiration of this delay may desire to leave the country or change their nationality will restore to the government their lands. In like manner they will be obliged to leave to the government without any compensation whatever all buildings they may have raised upon the lands, which will be no longer regarded as their property.

ART. 10. The colonists will acknowledge the authorities of the Caza or of the Landyok, to which the villages may belong, and little boroughs where they are established, and they will be governed and protected as the other subjects of the empire.

ART. 11. If before the expiration of the term of their exemption these colonists be obliged to change their abode and to establish themselves in any other place of the empire, they will be allowed to do it; but the term of their exemption from all taxation and imposts will still date from the time when the first ground was given to them.

ART. 12. The colonists must not have been criminals in their former country or of doubtful behavior, but must be honest men, laborers and tradesmen. And the imperial government reserves to itself the right to expel from the empire those who may subsequently be proved to have been in their own countries criminals or of bad character.

ART. 13. As each family, wishing to come to Turkey in order to colonize, will have granted to them as much ground as their means require before they start for Turkey, registers will have to be kept, containing minutely and in detail their names, their qualities, their means, and the sum of capital they possess. These must be put up and forwarded to the imperial government by its legations and consulates abroad, where there are any, and it is established that each family must have a capital equal to a sum of at least 60 medjidies in gold (about 1,350 francs, or $54).

ART. 14. From the time of their departure from abroad as well as on arrival in Turkey, the consuls of the Porte abroad and the imperial authorities at home will have to give these colonists necessary facilities for the transport of their goods and luggage. Their passports will be given to them free of charge by all the Ottoman consuls.

The council of the Toujimat (of reform) considers it incumbent upon any families desiring to colonize in Turkey to inform the government thereof at least two months beforehand, so that by the resolutions or steps that have already been taken, the government may have time to designate in the provinces of the empire which may be chosen for their colonization convenient lands to be distributed amongst the colonists, so that upon their arrival in Turkey they should not incur loss of time and fatigue. Consequently instructions will be given to the representatives and to the consuls of the empire abroad in conformity therewith.

No. 320.

Mr. Davis to Mr. Wallace.

No. 11.] DEPARTMENT OF STATE,
Washington, September 4, 1882.

SIR: Your dispatch of the 9th of June last, No. 98, in relation to a proposed additional charge of 8 per centum on petroleum, has been received and read with interest.

Your views on the general subject are in entire accord with those of the Department, and your foresight and vigilance in giving the matter prompt attention meet with its unqualified approval.

The subject, so far as it could in its present inchoate condition, has received attentive consideration.

The proposed measure, or scheme, as you not inappropriately denominate it, cannot be viewed otherwise by this government than as an act unfriendly to American commerce, and in contravention alike of the spirit of the treaty of 1862 between the United States and Turkey and of the acknowledged principles of international law and comity.

You will take proper occasion, and in your own way, to make known to the Ottoman Government the disappointment with which this government learns that such a proposition should be held in contemplation for a moment by the Porte, and you will urge upon the minister for foreign relations the impolicy of such a measure at a time when the friendly relations of the two nations rest upon so harmonious a basis. You will also advise the parties who have sought interference to protest against the payment, should the scheme be persisted in. You will also promptly inform the Department of the proceedings in any and every actual case, should any occur, in which the payment may be sought to be enforced. Should the proposed measure not be abandoned, further consideration will be given to the matter, of the results of which you will be promptly advised.

I transmit herewith, as a part of the record in the matter under consideration, copies of two letters addressed to the Department by Messrs. Iasigi & Co. and by Messrs. Laforme & Frothingham, of Boston, complaining of the proposed exaction of the authorities at Smyrna, touching the storage of petroleum, and whose agents in Turkey, as appears from your dispatch, have furnished you with similar information.

I am, &c.,

JOHN DAVIS,
Acting Secretary.

[Inclosure 1 in No. 11.]

Messrs. Laforme & Frothingham to Mr. Frelinghuysen.

BOSTON, *June* 15, 1882.

SIR: We beg to call the attention of your Department to the following statement:

In October, 1873, the municipality of Smyrna, Turkey, enacted regulations for the safe storage of petroleum, under which importers were required to store this article in warehouses to be located at least two kilometers from the city. In compliance therewith, we instructed our correspondents in Smyrna, Messrs. Reggio & Bellhomme, to erect a ware-house for the storage of our petroleum in Cordelio, a suburb of the city of Smyrna, at a cost of about 100,000 francs. Our warehouse has given entire satisfaction to the authorities and no complaint of irregularity has ever been made. The expense of storage in our warehouse has never exceeded 1½ per cent. of the value of the merchandise.

We are now informed that there is a proposition seriously pending before the authorities of Smyrna to grant a concession to parties in the city of Constantinople to erect in Smyrna a warehouse to be used exclusively for the storage of petroleum, compelling *all* importers to store this petroleum in this warehouse, and granting, in fact, a monopoly of the storage of this article in Smyrna to said parties. We are further informed that the monopoly in question proposes to impose a charge of 8 per cent. of the value upon the petroleum stored in said warehouse, refunding to the municipality 1 per cent. for the concession granted!

Not only would such a concession be entirely contrary to existing treaties, under which only 8 per cent. ad valorem can be assessed upon imports into Turkey, but it would involve a loss to us of the sum expended for the erection of our warehouse in Cordelio, which would then become useless to us.

We therefore appeal to your Department to instruct the United States minister in Constantinople and the United States consul in Smyrna to protect by their intervention our interests, as American citizens, which are so seriously threatened.

Yours, respectfully,

LAFORME & FROTHINGHAM.

[Inclosure 2 in No. 11.]

Messrs. Iasigi & Co. to Mr. Frelinghuysen.

BOSTON, *June* 27, 1882.

DEAR SIR: We beg to call your attention to the inclosed translated copy of a letter addressed by our representatives in Smyrna to the acting United States vice-consul at that port, in relation to an extra duty of 8 per cent. which the authorities there wish to impose, under guise of warehousing charges, on imports of petroleum. This duty we feel to be in direct violation of the commercial treaty between Turkey and the United States, and any such action would be prejudicial in the highest degree to our business relations with that country, as the result would be the cessation of all shipments of petroleum to Smyrna.

Begging that you will give this matter your early attention, we remain, &c.,

IASIGI & CO.

[Appendix to inclosure 2 in No. 11.]

Messrs. Jacob Balladur & Co. to Mr. Griffith.

MR. ACTING CONSUL: We, the undersigned, Jacob Balladur & Co., merchants, established and resident in Smyrna, have the honor, as representatives in this city, by virtue of legal power of attorney, of Messrs. Iasigi & Co., American merchants, established and resident in Boston, No. 30 Kilby street, very respectfully to bring to your notice that the Ottoman Government proposes, we are informed, to burden the importation of petroleum at Smyrna with a supplementary duty of 8 per cent., disguised under the title of warehousing charges, and independent, be it understood, of the customs duty, also of 8 per cent.; in fact, that the authorities at Constantinople, on the recommendation of the Idaré Medjiliss of our city, are on the point of according to one individual the privilege or monopoly of maintaining a warehouse, where all the merchants of our city shall be compelled to store their petroleum and to pay a duty of 8 per cent., under the title of warehousing. Now, in conformity with the limitations of article 3, cited below, of the regulation of October 13 (25), 1873, elaborated by the

local authorities, with the concurrence and adoption of the consular corps of this city, we have constructed, since the date given, large warehouses of stone, where we store the petroleum which the above-mentioned principals send us. During this long period of nine years there has been no disaster or even the slightest accident which could authorize or excuse the change in the regulation then in force. On the contrary, the arrangements, as practical and sensible as they were, in conformity with the spirit of the general police regulations of December, 1874, concerning the petroleum trade, have also the merit of reconciling both the public and private interests, and particularly of violating neither the spirit nor the letter of the capitulations and international commercial treaties, according to the terms of which no one in Turkey has a right to collect a duty under any title or on any pretext whatsoever, save the sole customs duty of 8 per cent.

To oblige us, in spite of ourselves, to deliver our petroleum to the care of any one individual or his representatives, whoever they may be, to exact from the merchants a new and supplementary duty compelling us to pay, under the specious title or pretext of warehousing charges, a duty of 8 per cent. when our storage expenses amount at the most to scarcely 1½ per cent., is, in our opinion, to violate the spirit and the letter of the capitulations and commercial treaties existing between foreign powers and the Sublime Porte. It is for the protection of the rights and interests of our above-named principals that we take, as representatives, the respectful liberty of addressing the present to you, and beg you to submit it with urgency to his excellency the minister of the United States of America at Constantinople. Trusting in his constant solicitude for the defense and protection of the lawful rights and interests of his countrymen, we feel sure that it will promptly determine him upon such measures as this grave and prejudicial state of affairs may suggest to arrest its realization, protesting officially in the most formal and most energetic manner against any collection of a supplementary duty under any pretext or title whatsoever, and holding the Ottoman Government responsible for all damages, foreseen or unforeseen, which may result.

Begging you to kindly deliver us an authenticated copy of the present, we have, &c.,

IASIGI & CO.
JACOB BALLADUR & CO.

Article 3 of the regulation of 13th (25th) October, 1873, published in L'Impartial of 27th October, 1873.

ART. 3. All the petroleum contained in the vessel shall be discharged in a special warehouse, at the choice of the importer, provided that this warehouse be removed at least 2 kilometers from the city and at least 1 kilometer from the villages.

No. 321.

Mr. Wallace to Mr. Frelinghuysen.

No. 129.] LEGATION OF THE UNITED STATES,
Constantinople, September 30, 1882. (Received October 25.)

SIR: I have the honor to acknowledge receipt of Mr. Davis' dispatch No. 11, dated September 4, 1882.

It gives me great pleasure to find my action in the matter of the proposed monopoly warehouse in Smyrna so heartily approved, and beg to say that the instructions now sent me shall be attended to. In a conversation had with the minister of foreign affairs since my dispatch No. 98, his excellency expressed his surprise at the proposed scheme of the authorities in Smyrna, and gave me to understand it was new to him, and that he did not understand where it could have originated. In this matter, as in all others, the difficulty is not to get the ministers to see the right or wrong and acknowledge it, but to act.

I have, &c.,

LEW. WALLACE.

VENEZUELA.

No. 322.

Mr. Blaine to Mr. Carter.

No. 15.] DEPARTMENT OF STATE,
Washington, November 1, 1881.

SIR: I forward herewith, for your information, a copy of a letter from Messrs. Boulton, Bliss & Dallett, general managers of the Red D line of steamships, of the 21st ultimo, in which they forcibly present considerations against the enforcement of a recent decree of the Venezuelan Congress, which provides for an additional duty of 30 per cent. upon all goods destined for the ports of that republic when transhipped at any of the West India islands.

It is understood that the decree may or may not be enforced, at the will of the Venezuelan Executive, and that its enforcement will work serious detriment to American trade.

You will give the subject your immediate and careful attention, and should the facts justify it, you are authorized to use your personal good offices with that government, with a view to induce it to suspend, if possible, the operations of that decree against our trade.

I am, &c.,

JAMES G. BLAINE.

[Inclosure in No. 15.]

Messrs. Boulton, Bliss & Dallett to Mr. Blaine.

NEW YORK, *October* 21, 1881.

SIR: We respectfully beg to ask your attention to the following:

For over forty years our firm has traded with American vessels with La Guayra and Puerto Cabello, in Venezuela, South America. Two years ago, in accordance with the requirements of the times, we substituted steamers for our sailing vessels, and in order to ascertain what boats were the most suitable, we first chartered English-built steamers. This year we built an iron steamship at William Cramp & Sons' yard, in Philadelphia, and this same firm is now building a second steamer for our line. It is our intention to run our steamers under the American flag, as we did our sailing vessels.

In addition to the ports in Venezuela above named, our main line stops at the island of Curaçoa, from whence we run a branch steamer to Maracaibo, the most westerly port of entry pertaining to Venezuela. At Curaçoa goods destined for Maracaibo are transhipped in bulk, accompanied with the certified invoices from this country. A light-draught steamer is here necessary, as the bar at the entrance to the harbor of Maracaibo has only 11 feet of water. Such a steamer, adapted to the trade, we had built in Philadelphia one year ago.

On the 27th May of this year the Venezuelan Congress decreed that one year from that date, on the expiration of the treaty with Denmark, all goods destined for Venezuelan ports, when transhipped at any of the West India islands, should pay an additional duty of 30 per cent. This decree may or may not be enforced, according to the will of the Executive.

At the present time, when American steamship lines are struggling for existence against heavy odds, we ask the good offices of your department with the Executive of Venezuela to suspend the operations of this decree, which will seriously embarrass American trade by steamship.

We remain, &c.,

BOULTON, BLISS & DALLETT,
General Managers Red D Line Steamships.

No. 323.

Mr. Carter to Mr. Blaine.

No. 36.] LEGATION OF THE UNITED STATES,
Caracas, November 29, 1881. (Received December 16.)

SIR: I have the honor to acknowledge the receipt of your No. 15, of November 1 instant, inclosing copy of a letter from Messrs. Boulton, Bliss & Dallett, of New York, relative to the special duty provided for by decree of the Venezuelan Congress on all goods transhipped from any of the West Indian islands into the republic. Without indicating the source where this complaint originated, I called the attention of the minister of exterior relations to this decree, and informed him that ill effects might come upon the commerce of the United States if the decree should be enforced. I ascertained from the minister that Trinidad and Curaçoa generally were points from which smuggling ventures emanated, to the serious disadvantage of Venezuela, and they, particularly the latter, were the rendezvous of disaffected and seditious persons, who used these localities as points of organization for revolutionary movements against the Government of Venezuela. For these reasons the Venezuelan Congress had passed the decree referred to. The purpose was political rather than fiscal, and looked to the suspension of trade between these two islands especially and Venezuela as the price of protecting the government of the republic against revolution and the violation of its revenue laws. I suggested that this course might provoke retaliation from Holland and England; that thereby disaffection would be promoted and the facilities for the hurtful expression of it against the Government of Venezuela would be also increased: that the government could bear political agitation from malcontents better than this loss to its commerce; and finally suggested that the trade of the United States with South America, owing to the condition of the South American ports, required, in many cases, intermediary points for distribution and transhipment of its products, and that the collection of these differential duties might seriously embarrass our commercial interests. Mr. Seijas responded that there was great force in these considerations; that this legislation, prompted by political motives, was experimental, and its expediency doubtful; and finally, that the Congress would convene in February, and could, and probably would, repeal this law. I have no doubt, if urged thereto, on the ground of preventing hardship and injury to our commerce, the law would be suspended, but I did not deem it prudent at this juncture to make this the only or main reason for a repeal or suspension of the law, but attempted, in addition to this ground of action, to give other considerations that would justify the government in reversing its policy.

I have the honor to inclose, for your information, two copies of the Gaceta Oficial, containing the decree referred to, together with a translation thereof.

I have, &c.,

GEO. W. CARTER.

[Inclosure in No. 36.—Translation.]

The Congress of the United States of Venezuela decrees:

ARTICLE 1. Produce, merchandise, and chattels proceeding from foreign colonies and imported through the ports of entry of the republic, as well as those proceeding from the ports of Europe or the United States of North America, destined for Venezuela,

and transhipped in said colonies into other vessels which are to bring them to this country, are to pay 30 per cent. additional on the amount of the specific duties, payable according to the tariff now in force.

2. Produce, merchandise, and chattels shipped in Europe or the United States of North America, destined to the eastern or western ports of the republic, to which the vessels having them on board do not propose to proceed, may be transhipped in Carupano, La Guayra, or Puerto Cabello in order to continue their voyage to said ports, and may also be examined and cleared in any of these three ports of transhipment in order afterwards to be forwarded to their destination in coasting vessels.

§ In this last case there shall be allowed on the duties on merchandise, produce, and chattels thus imported such a rebate as the national Executive may fix as compensation for the extra expenses incurred on them, but the articles thus cleared must remain deposited in the respective custom-houses until reshipped to their destination.

3. The national produce and productions shall continue to be exported to foreign countries as heretofore through all the ports authorized to that effect. They may also be transhipped in the ports of La Guayra, Puerto Cabello, and Carupano at the option of the owners, if, at the time of transhipment, the payment of road-tax levied as per existing tariff by the respective overland custom-houses ("aduanas terrestres") is authentically attested.

4. This law is to come into force on the termination of the treaty of amity, commerce, and navigation, signed between Venezuela and His Majesty the King of Denmark on the 19th of December, 1862, which, having already been denounced, will only be obligatory for one year more from the receipt of such notification.

Given at the Palace of the Federal Legislative Body at Caracas, the 27th of May, 1881, eighteenth of the law and twenty-third of the federation.

The president of the Senate:

NICHOLAS M. GIL.

The president of the Chamber of Deputies:

D. BUSTILLOS.

The secretary of the Senate:

M. CABALLERO.

The deputy secretary:

N. AUGUSTO BELLO.

Federal Palace at Caracas, the 4th of June, 1881, eighteenth year of the law and twenty-third of the federation.

Be it executed and let its execution be taken care of.

GUZMAN BLANCO.

Countersigned:
The minister of finances:

J. P. ROJAS PAUL.

No. 324.

Mr. Carter to Mr. Blaine.

[Extract.]

No. 39.] LEGATION OF THE UNITED STATES,
Caracas, December 1, 1881. (Received December 16.)

SIR: Since mailing my dispatch No. 36, relative to the special duties proposed in a recent decree of the Congress of Venezuela to be imposed on such European and American commodities as are transhipped from the West Indian islands into the ports of the republic, I am reliably informed that the British Government has recently protested, formally, through its diplomatic representative at this capital, against the enforcement of this decree, on the alleged ground that it violates the provisions of the treaty stipulations in force between the two governments. My information is not official, but is entitled, however, to great weight. Such a protest at this time * * will materially increase the probability of a repeal or suspension of the decree. * * *

The second section of the decree empowers the Executive to allow, in

certain cases, and as compensation for the extra expenses incurred under the law, a rebate on the duties imposed, but he is not authorized to suspend the operations of the decree. This is the function of the body enacting it, and I suppose that, until the convening of Congress in February, nothing further than a friendly assurance from the Executive of co-operation in the desired direction can be accomplished.

I have, &c.,

GEO. W. CARTER.

No. 325.

Mr. Bancroft Davis to Mr. Carter.

No. 25.] DEPARTMENT OF STATE,
Washington, December 30, 1881.

SIR: Your Nos. 36 of the 29th ultimo, and 39 of the 1st instant, have been received. You therein reply to my predecessor's instruction of November 1, No. 15, in relation to the complaint of Messrs. Boulton, Bliss & Dallett, of New York, touching the additional tax of 30 per cent. to be levied on imports from the United States which may reach Venezuela after transhipment in a West Indian colonial port. From your dispatch, and the text of the Venezuelan decree of May 27, 1881, which you transmit, it is seen that the proposed enactment is as objectionable in its effects on American commerce with Venezuela as the representations of the exporters had led the Department to believe, and further, that, contrary to the impression formed here, the Venezuelan Executive cannot suspend the execution of the law, but that revision or relief must be had by the action of the Congress of the republic. It does not appear, on perusing article 2 of the decree to which you refer, that, as you say in your No. 39, the Executive can allow a rebate on the duties imposed in the case of foreign goods transhipped in a colonial port, inasmuch as that article refers only to goods coming direct from Europe or the United States to Carupano, La Guayra, or Puerto Cabello, and transhipped there to be carried by coast trade to their ultimate destination in Venezuela, in which case a rebate is granted to compensate for delay and cost of such transhipment. The obnoxious provisions seem to stand alone in article 1 without remedy.

The enforcement of this law is fixed to take effect on the termination of the already denounced treaty between Venezuela and Denmark, but the date of such termination is not given. It is desirable to know this.

The seventh article of the Danish treaty, unlike the sixth article of our own of 1860, contains a specific provision equalizing duties on goods imported in Danish vessels into Venezuelan ports (and reciprocally), whether those goods come from the place of production or any other place. The British treaty, without containing so specific a clause, necessarily covers the carrying trade between British colonies and Venezuela. Our own treaty, without embracing either provision, gives to United States vessels the treatment of the vessels of Venezuela bringing goods from any country. While, therefore, we may not rely upon our treaty alone, it is perfectly proper for us to maintain an attitude of friendly remonstrance, in the conviction that the Venezuelan Congress

will give due heed to the needs of intercourse between Venezuela and the United States.

The discreet manner in which you have heretofore presented the issue, as reported in your No. 36, leads to the belief that you will be equally felicitous in obeying the present instruction.

I am, &c.,

J. C. BANCROFT DAVIS,
Acting Secretary.

No. 326.

Mr. Carter to Mr. Frelinghuysen.

No. 60.] LEGATION OF THE UNITED STATES,
Caracas, January 11, 1882. (Received January 27.)

SIR: I have the honor to inform you that, in accordance with instructions received from the Department of State, I, in a personal interview with the minister of exterior relations of Venezuela, on December 28, 1881, suggested the desirableness of a congress of the independent states of North and South America, with the view of devising some method by which controversies, arising among them from any cause, could be satisfactorily adjusted otherwise than by a resort to force, so as to avert the evils of war, and informed him that I had received a communication upon this subject from the Secretary of State, which I was instructed to read to him. He promptly replied, that such a measure was in harmony with the policy of Venezuela heretofore, and that he had no doubt that the president of the republic would heartily cooperate in such a movement. On the 29th of December ultimo I read the dispatch of Mr. Secretary Blaine, No. 18, of November 29, to the minister of exterior relations, and the same day addressed a communication to him covering a copy of dispatch No. 18, and formally, in the name of the President of the United States, invited the president of the republic to designate two commissioners, who should represent Venezuela in the proposed peace congress. Under authorization of department No. 19, I indicated, in the copy of No. 18 furnished the minister, November 22, 1882, as the day upon which the congress would convene.. On December 30 ultimo I submitted to the minister the practical suggestions relative to the conduct of the congress contained in department dispatch No. 20, and at his request, on January 2, I em bodied these suggestions in a letter. Of my own motion I intimated that it would be expedient that at least one of the commissioners should understand the English language, to which he responded that both of the representatives of Venezuela should be familiar with the English language, and that the appointments would be made in part with reference to this end. On January 7 instant I received from the minister of exterior relations a reply to my communication of December 29 ultimo, in which he recites the objects and character of the congress as outlined in the dispatch of Secretary Blaine, No. 18, and my communication of December 29, transmitting said dispatch, refers to the efforts of Venezuela heretofore, by similar measures but on a more limited scale, to adjust controversies between the Spanish-American republics; refers specially to the efforts of the liberator, Bolivar, to harmonize these communities by the congress of Panama convened in 1825, which received the warm commendations of His Excellency President John

Q. Adams; commends most heartily the disinterested and successful efforts of the United States to compose honorably and by peaceful agencies difficulties heretofore arising between the Spanish-American republics, and the liberal, equal, and just terms upon which she now asks the co-operation of all the independent American states in perfecting this work of peace and fraternity, and concludes by declaring that the President of Venezuela accepts with pleasure the invitation of His Excellency the President of the United States, and will, in due time, designate two commissioners, furnished with needful powers and instructions, who shall represent Venezuela in the peace congress to convene at Washington City, November 22, 1882. On the same day and of the same date I received from the minister a communication in response to my letter of January 2 instant, in which he expresses approval of the practical suggestions submitted, and commends the liberality and thoughtfulness of the Government of the United States in undertaking to furnish a suitable hall for the meeting of the commissioners, and at its own expense to provide for all the material requirements of the Congress. I inclose a copy of my letter of December 29 ultimo, and a copy and translation of the response thereto by the minister of exterior relations; a copy of my letter of January 2 instant, and copy and translation of the reply of the minister thereto; also a copy of my letter of January 9 instant, in reply to the two communications, herein referred to, of the minister of exterior relations.

The enthusiasm and earnestness with which this humane measure of the Government of the United States, has been met by this government is most gratifying, and the sincerity of the feeling and purpose manifested by them cannot be questioned.

I have, &c,

GEO. W. CARTER.

[Inclosure 1 in No. 60.]

Mr. Carter to Mr. Seijas.

LEGATION OF THE UNITED STATES,
Caracas, December 29, 1881.

SIR: I have the honor to inform your excellency that the President of the United States of America contemplates the formation and convention of a peace congress, to be composed of two commissioners from each of the independent states of North and South America, and to convene in Washington, the capital of the United States, on November 22, 1882, for the purpose of devising and adopting some feasible method, other than a resort to force, for the adjustment of the controversies that may arise from questions of boundary or other causes between the independent political communities of the Western Hemisphere, or between different sections or fractions of said communities, so as to avert the miseries and burdens of war.

The character and objects of the proposed congress are explicitly, forcibly, and frankly set forth in the letter of the honorable Secretary of State, read to your excellency by me, and a copy of which, at your solicitation, is herewith furnished you.

The ends sought are so beneficent in their nature and so paramount in their importance; the conditions of co-operation between the parties in interest so equal and honorable; and the methods of action suggested so in accord with the spirit of a liberal and advanced civilization, as to commend in the judgment of the President this humane and philanthropic movement to the favorable consideration and sympathy of all the independent governments of the two continents. I now, in the name of the President of the United States of America, have the honor, through you, to invite His Excellency the President of the United States of Venezuela to designate two commissioners provided with the powers and instructions necessary in the premises, who shall represent the Republic of Venezuela in the peace congress to convene in the place and at the time herein indicated, and I respectfully solicit as early a response to this communication as may be compatible with the gravity and importance of the subject with which it deals.

I have the honor, &c.,

GEO. W. CARTER.

[Inclosure 2 in No. 60.—Translation.]

Mr. Seijas to Mr. Carter.

CARACAS, *January* 7, 1882.

SIR: I have the honor to inform your excellency that I received and have submitted to the consideration of the President of the Republic the note of your legation of 29th ultimo, in which you state that the President of the United States of America proposes the formation and convention of a peace congress that shall be composed of all the independent states of North and South America, to be convened at Washington on the 22d of November, 1882, with the object of devising and adopting some feasible means, other than the appeal to force, for the adjustment of the controversies that may arise from questions of boundaries or other causes between the independent political communities of the Western Hemisphere, or between different factions or sections of the same, in order to avert the miseries and burdens of war.

Your excellency refers for the explanation of the nature and objects of the proposed congress to the letter of his excellency Mr. Blaine, Secretary of State, that you inclosed to me and had read to me before.

After the illustrious American had heard the reading of both communications, he expressed the opinion that the project portrayed in them was grand and worthy of being accepted with enthusiasm by all the Spanish American republics, for this idea is the line of their wishes, and coincides with the one that inspired Bolivar in the formation of the congress of Panama, so warmly applauded by the President of the United States, Mr. John Quincy Adams.

It is certainly a source of satisfaction that the first republic of the world—loyal to her noble antecedents—in view of the growing tendency of these countries to look to arbitration, and not to arms, for the solution of international difficulties, and to consider her as their friend and mediator, should, after having interposed on various occasions her good offices, and succeeded in preventing conflicts, or in putting an end to those existant, without pretensions of dictatorship and solely as a proof of common friendship, inspired only by considerations of philanthropy and civilization, take charge of a matter which concerns mainly the other countries of the western continent, and should utilize the great influence derived from her immense progress and wealth to prevent the horrible calamities of wars between brethren, and should consent to preside over the deliberations of a peace congress that proposes to devise the means of ending future disagreements without an appeal to war and its terrible legacies.

And this satisfaction increases when contemplating the United States acting in a manner that saves the independence and other attributes of sovereignty, and especially the equality between her and the nations by which the congress is to be formed, and offering to employ all her influence in harmonizing whatever antagonism of interest may exist between the states which answer to this call, and even assuming the expenses for the inauguration of the congress, interpreting and publishing of its acts, &c., as your excellency has informed me in your note of later date.

So exalted a conception bears with it the assurance of its accomplishment by the influence of the government which undertakes to carry it into effect. So there is sufficient ground to hope that on this occasion the efforts for the suppression of war between the countries of the American continent will not be frustrated. If this is attained the example will extend its influence to the other hemisphere, and the world will behold the disappearance of this calamity, and established in its place, for the comfort of humanity and as an evident mark of progress, practices of love for life and the properties of men linked by fraternal intercourse.

It is designed to put in practice the same idea that was in the Venezuelan mind when, after the 19th of April of 1810, and as a heroic cry proclaiming the independence, they repeated the words "hail to free America."

It is that provision which the immortal Bolivar, when in the midst of a war to the death, addressed to the Argentines, when he invited them to a fraternal embrace on top of the Andes, in the center of the continent, on the day of the last victory.

It is that thought which Bolivar conceived as the complement of the work of independence, and for the realization of which he convoked in 1825 the Congress of Panama. It is finally the luminous design for which, afterwards, other continental congresses were convened; among them, the one of Lima of 1864, at which Venezuela assisted.

The President of the republic, which has had occasions for appreciating the goodwill and mediation of the United States in her behalf, and which hopes all from the solid and permanent peace between the countries of America, accepts with pleasure the invitation to the peace congress at Washington, and in due time he will designate the two commissioners for Venezuela, providing them with the needful powers and instructions.

I renew to your excellency, &c.,

RAFAEL SEIJAS.

[Inclosure 3 in No. 60.]

Mr. Carter to Mr. Seijas.

LEGATION OF THE UNITED STATES,
Caracas, January 2, 1882.

SIR: Referring to my recent communication covering and transmitting to your excellency No. 18 of the Department of State, relative to the peace congress proposed to be held under the auspices of the United States Government at Washington, November 22, 1882, I am authorized to say that the Government of the United States will undertake to supply a suitable hall for the meetings of the commissioners, and will, at its own expense, meet all the material requirements of the congress—providing for reporting and interpreting the proceedings, and printing the resultant protocols in Spanish and English, for the use of all parties, and also for secretaries, clerks, and copyists in both languages, so that the invited countries will incur no expense except for the maintenance of their own commissioners.

I have the honor, &c.,

G. W. CARTER.

[Inclosure 4 in No. 60.—Translation.]

Mr. Seijas to Mr. Carter.

CARACAS, *January 7*, 1882.

SIR: By the communication of your excellency of the 2d instant, the government is informed that in reference to the peace congress at Washington, proposed by the United States, the President has resolved to undertake the providing of a suitable hall for the meetings of the commissioners, and to cover all the expenses for the material ends needful—for editing and interpreting of the acts and printing of the protocols in Spanish and English; also the remuneration for the secretaries, clerks, and copyists, so that the countries invited will incur no liability except the maintenance of their own commissioners.

Complying with the orders of the President, I give thanks, through the honorable medium of your excellency, to the Government of the United States, which, with the purpose of facilitating the convention of the congress and the attainment of its humane ends, wishes to meet alone, expenses incumbent upon all the interested parties.

I renew to your excellency, &c.,

RAFAEL SEIJAS.

[Inclosure 5 in No. 60.]

Mr. Carter to Mr. Seijas.

LEGATION OF THE UNITED STATES,
Caracas, January 9, 1882.

SIR: I have the honor to acknowledge the receipt of the communication of your excellency of January 7th instant, in which you express, in behalf of His Excellency the President of the republic, hearty approval of the proposed peace congress of the independent states of America, to be convened in Washington City, November 22, 1882, and inform me of his acceptance of the invitation tendered by His Excellency the President of the United States to designate two commissioners who shall represent the United States of Venezuela in said congress.

I have also the honor to acknowledge the receipt of the communication of your excellency of January 7th instant, in which you express satisfaction with the suggestions relative to certain practical details in the conduct of the congress, submitted by me in my letter of January 2d instant. The frank, liberal, and appreciative spirit in which the Government of Venezuela has met this effort of the Government of the United States, in the interest of humanity and our common national brotherhood, is most honorable and gives earnest of most gratifying results. I shall, with great satisfaction, communicate to my government the views expressed by your excellency on this grand theme, and the favorable consideration given by His Excellency the President of the republic to the invitation that I have, in behalf of the President of the United States, extended to him.

I renew to your excellency, &c.,

GEO. W. CARTER.

No. 327.

Mr. Carter to Mr. Frelinghuysen.

No. 67.] LEGATION OF THE UNITED STATES,
Caracas, January 25, 1882. (Received February 10.)

SIR: Acknowledging the receipt of your No. 25, and referring to my No. 36 relative to the decree imposing special duties on products of Europe and the United States, when transhipped in the West Indian Islands into Venezuela, I have to say that the favorable prognostications of my last dispatches were based upon my conversation with the minister of exterior relations. Recently the minister informed me that he had submitted my views to President Blanco, and that he had been instructed to inform me that the objects of the law were the suppression of smuggling, and the prevention of revolutionary plots against the existing government, and further that the President believed, in view of the fact that the United States had no colonial appendages upon which to distribute its favors and trade, that this law would lead to a more direct trade between the republics, and would ultimately enable the United States to secure the trade that England, France, and Germany now derived from Venezuela, and thus be ultimately beneficial to the commerce of the United States. I do not accept as just the conclusions stated. I am sure that this decree proceeds upon a misapprehension of the industrial facts of the case, and in ignorance of the laws of trade. I do not believe that it will suppress smuggling, but on the contrary facilitate it, nor do I believe it will prevent discontent or the operations of political malcontents, but will further and aid their plans. Yet I am sure that the true grounds of enacting the decree are stated, and I believe that the President thinks it will be ultimately helpful to American commerce. Venezuela, outside of a few coasting vessels, has no mercantile marine; all her foreign carrying trade is under other flags than that of Venezuela. Under the circumstances, the public men of Venezuela have not studied and do not understand this commercial question, and it is difficult to get them to appreciate the argument submitted in this connection.

President Blanco and the minister of exterior relations have each discussed matters of public moment with me repeatedly, and have invited suggestions from me on such subjects, and have thanked me for such as I have submitted. Under this privilege, I am preparing a memoranda of reflections upon this decree, especially in its political and commercial effects upon the two republics, with the view of securing the attention and action of the President, and the minister of exterior relations says that he will guarantee careful consideration of the same. I present it unsigned, personally and as a friend of the two countries, because I can thus present considerations that could not appropriately appear in an official communication on the subject. I do not despair of success, either to secure a repeal of the decree, or else such a modification as will protect the commerce of steamers now plying between Venezuela and the United States. I will hereafter furnish a copy of the memoranda submitted by me.

I have, &c.,

GEO. W. CARTER.

No. 328.

Mr. Carter to Mr. Frelinghuysen.

No. 105.] LEGATION OF THE UNITED STATES,
Caracas, April 19, 1882. (Received May 3.)

SIR: Referring to Mr. Baker's No. 464, and to Department dispatch to me, No. 8, relative to the custody of ships' registers, I have to inform you that I have several times urged upon the minister of exterior relations action, in the direction desired by the Government of the United States, but without any satisfactory result. In a recent interview with the minister, he informed me that the present practice of this government, in the matter, was regulated by an existing statute; but that they were prepared to entertain specific propositions from the Government of the United States for the modification of the law now in force.

I have, &c.,

GEO. W. CARTER.

No. 329.

Mr. Carter to Mr. Frelinghuysen.

No. 107.] LEGATION OF THE UNITED STATES,
Caracas, April 22, 1882. (Received May 3.)

SIR: Referring to my No. 67, relative to the decree of June 11, 1881, imposing additional duties of 30 per cent. on products from Europe and the United States, when transhipped from any West Indian port into Venezuela, I have to inform you that I have repeatedly and fully discussed, with the minister of exterior relations, the effect of this law upon the commerce of both Venezuela and the United States, and have entered a friendly remonstrance against its enforcement. The minister gave me respectful hearing, and requested me to put my views in writing. He also submitted my reflections to the President of the Republic. In the absence of any instructions from the Department on the point, I concluded to rest the case on a verbal statement thereof. In conclusion, I suggested that the government, if the law should be enforced, might mitigate its hardships upon American commerce by giving the American line of steamers, not only the benefit of the rebate provided for in Article 2 of the law, but by allowing them, through their smaller steamers, the right, without forfeiture of their American charters to distribute from Puerto Cabello to Maracaibo and other subsidiary points the cargoes designed for them. Or else the administrative officer, the President, might construe this law, so that the disabilities attached to transhipment of articles at Curaçoa for Maracaibo should not be extended to such articles from the United States as were covered by through and continuous consular invoices. I entertained the hope for some time that one of these expedients for relief would be adopted, but my expectations thus far have not been satisfactorily realized.

On April 12 instant an executive decree, approved by the federal council, was enacted looking to the enforcement of the decree of June 4, 1881, and the same was promulgated April 20 instant in the Gaceta Oficial. I inclose a printed official copy and translation of the executive decree referred to. The law of June 4, 1881, goes into effect May 3, 1882.

The executive can yet give the relief sought, in either of the suggested methods, if so disposed; and the language of the decree just promulgated in Article 2 thereof is supposed to look to such measure of relief. It imposes restrictions upon national vessels when engaged in distributing foreign cargoes from La Guayra, Puerto Cabello, or Carupano to other ports, in that it forbids participation currently by them in the coasting trade proper. The form of expression is also peculiar. The article declares:

> The vessels receiving transhipments in La Guayra, &c., of merchandise, &c., to be carried to other eastern or western ports of the republic, &c., when (or if) they are national shall not be allowed to carry at the same time merchandise in the coasting trade.

This conditional form of expression would suggest that other than national vessels might engage in the work of distribution of foreign cargoes in these cases, and the restrictions imposed upon the national vessels makes the impression that the purpose of the decree is to discourage them from engaging in this particular trade. The representatives here of the American line are inclined to take this view of the law, and are disposed to construe it as a tacit concession in favor of American commerce.

I have, &c.,

GEO. W. CARTER.

[Inclosure in No. 107.—Translation.]

The President of the United States of Venezuela, in execution of Article 2 of the law of June 4, 1881, which establishes a duty of 30 per cent. additional on the duties levied in conformity with the tariff now in force upon merchandise imported from the Antilles, and with the affirmative vote of the federal council, decrees:

ARTICLE 1. Produce, merchandise, and chattels proceeding from Europe or the United States of North America, destined to the eastern or western ports of the republic, to which the vessels having them on board do not propose to proceed, and which for this circumstance have to be examined and cleared at the custom-houses of La Guayra, Puerto Cabello, or Carupano shall have a rebate of five-hundredths of a Bolivar on each kilogram that the merchandise contained in the invoice may represent, which will be deducted from the duties of importation that they may bear.

The custom collectors shall not make the rebate to which this article refers when the eastern or western port to which the merchandise is destined is not expressed in the respective consular invoices and manifests.

ART. 2. The vessels receiving transhipment in La Guayra, Puerto Cabello, or Carupano, of produce, merchandise, and chattels to be carried to other eastern or western ports of the republic, as the law of June 4 above mentioned permits, when they are national, shall not be allowed to carry at the same time merchandise in the coasting trade, for said vessels must be considered, in the port where they land, as proceeding from a foreign port.

ART. 3. The captains or supercargoes of vessels receiving merchandise for transhipment in the ports of La Guayra, Puerto Cabello, or Carupano shall present at the custom-house where they bring said merchandise the manifest, invoices, and bills of lading corresponding to the merchandise which will be delivered to them by the custom collector of the port where the transhipment has taken place, after said officer has compared and examined the manifest with the certificates that are required to be presented at the custom-house by the officer who witnessed the transhipment of said merchandise.

ART. 4. The collectors of customs, in whose port these transhipments take place, shall, in every case, communicate to the ministry of finances and the custom-house to which the merchandise is destined the name of the vessel on board of which the merchandise has been forwarded from foreign ports, the name of the vessel in which the merchandise is carried to the port of its destination, the number of packages which constitute the cargo transhipped, and the forwarding of the documents referring to it.

ART. 5. The failure to present any of the documents with which the foreign merchandise imported into the republic has to come accompanied, in accordance with Law XVI of the fiscal code, shall impede the transhipment to which the preceding

articles refer, and the custom-collector of the port where this failure shall have occured shall detain the merchandise until this defect shall be repaired, in accordance with the same law regulating custom-houses, after which he shall examine and clear the same, as if it had been destined to said port.

ART. 6. The merchandise imported from the Antilles or transhipped in the same, destined for transit to Colombia, and which has to be examined in Maracaibo or in Ciudad Bolivar, shall be taxed also with the 30 per cent. additional, established by the law of June 4, 1881, in provision of the conditions expressed in the law of transit that merchandise shall pay in Venezuela, on its entry, the duties that it may bear or be subject to.

ART. 7 The minister of finance shall determine the measures that he may think necessary for the better execution of the present decree, of whose administration he will take charge.

Given, signed with my hand, and countersigned by the minister of finance in the federal palace at Caracas, April 12, 19, and 24, 1882.

GUZMAN BLANCO.

Countersigned: the minister of finances:
A. CABALLERO.

No. 330.

Mr. Frelinghuysen to Mr. Baker.

No. 151.] DEPARTMENT OF STATE,
Washington, May 8, 1882.

SIR: Mr. Carter's dispatch of the 19th ultimo, No. 105, touching the disposition of ships' registers, when in the ports of Venezuela, has been received.

In view of Mr. Carter's statements it is desired that you will suggest to that government the propriety of adopting the provisions of the United States Statutes in regard to the matter, which are understood to be similar to those of most other commercial countries. A reference to Article XII of the Consular Regulations of 1881 will show the nature and extent of our laws and regulations upon this subject.

I am, &c.,

FRED'K T. FRELINGHUYSEN.

No. 331.

Mr. Baker to Mr. Frelinghuysen.

No. 483.] LEGATION OF THE UNITED STATES,
Caracas, June 8, 1882. (Received June 24.)

SIR: Referring to my No. 464, to Mr. Carter's No. 105, and to your dispatch numbered 151, all relative to the custody of ship's papers at the ports of this country, and the desireableness of a change of the existing practice in these ports, I have to say that on the 3d instant, I brought the matter in a very earnest but friendly manner again to the attention of Mr. Seijas, suggesting the sufficiency of the provisions of the statute of the United States on the subject, and presenting reasons why a change should be made by which ship's papers should be deposited with the consular officers of their respective countries. Mr. Seijas appeared to be quite friendly to the idea of a change, indicated that he would bring the subject to the attention of the proper minister, and make a strong recommendation in relation thereto to the President; and, on my sug-

gesting that I supposed the extraordinary powers of the President were sufficient to enable him to make a provisional decree in relation to the matter, subject to the future approval of Congress, he indicated that he thought I was not mistaken in that view. On the 7th instant (in the course of conversation on another matter), Mr. Seijas voluntarily recurred to the subject, and indicated that he had brought the matter to the attention of the proper minister, who would make a study of it, &c.

On the whole, I am disposed to think that a change in relation to the practice in question will be made, and that before a great while.

I am, &c.,

JEHU BAKER.

No. 332.

Mr. Baker to Mr. Frelinghuysen.

No. 487.] LEGATION OF THE UNITED STATES,
Caracas, June 13, 1882. (Received June 24.)

SIR: Referring to Department dispatches to Mr. Carter numbered 15 and 25, and to Mr. Carter's dispatches numbered 36, 39, 67, and 107, all relative to the recent measure adopted by this government, imposing an additional duty of 30 per cent. upon commodities proceeding from foreign colonies to the ports of this country, or from Europe or the United States to the ports of this country, *with transhipment in such colonies*, I have to say that my information is that this measure went into effect on the 3d ultimo, and that some duty has been collected in pursuance of it.

I presume I shall receive, at an early day, instructions respecting the present phase of the question. Meantime, in view of the extraordinary character of the measure, and of the spirit of the instructions already sent to this legation respecting it, I shall deem it right to take some step in relation thereto at as early a day as practicable. As at present advised, my view is short. It is to request this government to so modify the measure as to exempt from its operation all consignments of goods from the ports of the United States *which are covered by through consular invoices and bills of lading for the ports of this country.* Although the goods so covered may be stored and transhipped, or simply transhipped, in any of the colonies embraced in the measure. I presume such a modification, if made, would have to be general, and apply equally to the commerce of all nations trading with this country—and, so much the better for that, I would judge.

Although Congress has adjourned, my impression is that the extrordinary powers which the President is in the habit of employing are sufficient to enable him to make a remedial decree in the premises, if he shall be disposed to do so.

I intended to have opened the matter to Mr. Seijas, in the sense above suggested, on Saturday, the 10th instant, and called twice at the foreign ministry without finding him in. As soon as practicable after the dispatch of the present mail, I purpose bringing the matter to his attention, and fully expect to have something further to communicate on the subject by the next succeeding mail.

I am, &c.,

JEHU BAKER.

No. 333.

Mr. Baker to Mr. Frelinghuysen.

No. 494.] LEGATION OF THE UNITED STATES,
Caracas, June 19, 1882. (Received July 8.)

SIR: Referring to my No. 487, of date 13th instant, I have to say that on Saturday the 17th instant I had a conversation with Mr. Seijas, in which I presented to him the view suggested in my said No. 487 respecting the additional duty of 30 per cent. therein referred to. I stated to him, in substance, that I had no doubt whatever that his government did not intend to injure the commerce of the United States with Venezuela in imposing this additional 30 per cent. of duty on commodities coming to Venezuela by way of colonial ports, but that we felt that this was the effect of the measure; and I presented to him the idea of so modifying the measure in question as to make it inapplicable to consignments of goods coming by way of these ports, but covered by through consular invoices and bills of lading to Venezuelan ports; and I added a remark to the effect that, so far as I then saw, this would effectually remedy the mischief the measure was working to our commerce. He stated, in substance, that the object of the law was to break up the smuggling that was going on from Curaçoa and Trinidad, and * * * that it was the opinion of the government that the measure would be beneficial to the commerce of foreign states by breaking down smuggling.

I indicated to him that I did not concur in the latter view; pointed out to him how the measure interfered with the introduction of our commodities by deeper draught steamers to Curaçoa, and by one of shallower draft thence to Maracaibo, and the like interference with the introduction of our commodities, as I understand the matter, first to Port of Spain in Trinidad, and thence by steamers adapted to the service up the Orinoco. I indicated to him that the object of putting a stop to smuggling was certainly a good one, but that in my opinion the measure in question would retain all the efficacy it might have as against smuggling after being modified as I had suggested; that I was clearly of opinion that the exempting of goods from the operation of the measure which proceeded from the United States with through consular invoices and bills of lading had no more tendency to encourage smuggling, although the goods should stop temporarily at an intermediate colonial port than if they were sent directly through; and I suggested to him that if his government should see the matter in the same light, I supposed it would make the modification I had pointed out. I understood him to give a not very hearty assent to this suggestion, and he made a remark to the effect, as I understood him, that he thought it would be difficult for the government to so see it. He said he would consider the matter, and inform the President of what I had said about it. I intimated to him that I would see him further on the subject, and purpose doing so at an early day.

I am, &c.,

JEHU BAKER.

No. 334.

Mr. Frelinghuysen to Mr. Baker.

No. 163.] DEPARTMENT OF STATE,
Washington, July 5, 1882.

SIR: Adverting to previous correspondence upon the subject, and acknowledging the receipt of your dispatch No. 487 of the 13th ultimo, relative to the additional duty of 30 per cent. imposed upon imports from the United States into the ports of Venezuela, I have now to inclose, for your information, a copy of a further communication addressed to the Department by Messrs. Boulton, Bliss, and Dallet, respecting that matter. In it they ask that you may be instructed to secure, if possible, a modification of the decree of the Venezuelan Government, in order that their merchandise shipped from New York destined for Maracaibo, when accompanied by proper consular invoices, from the consuls of that republic in this country may be allowed transhipment at Curaçoa to the firm's branch steamer trading between the ports of Venezuela.

Your above-mentioned dispatch shows your appreciation and understanding of the present situation, and your action, looking to the obtaining of such liberal and just changes in existing regulations through the executive of that government, is approved. In thus endeavoring to materially benefit our commerce with that country, it might be well to bring to the attention of his excellency the wishes of Messrs. Boulton, Bliss & Dallett, and, if possible, have them complied with, unless such modifications as you may be able to obtain in the premises should cover their point and should be general in their effect, thereby exempting them, with others, from the payment of the onerous additional duty now imposed.

I am, &c.,

FRED'K T. FRELINGHUYSEN.

[Inclosure in No. 163.]

Messrs. Boulton, Bliss & Dallett to Mr. Frelinghuysen.

NEW YORK, *June* 15, 1882.

SIR: We beg respectfully to represent that on the 21st October, 1881, we addressed the Department on the subject of a decree contemplated by the Executive of Venezuela; and again on the 5th of January last, in reply to a communication from the Department on the same subject.

The decree referred to, imposing a discriminating duty of 30 per cent. upon all merchandise imported into Venezuela from any of the West India Islands, was promulgated on the 12th of April last. The object of the decree is to discountenance importations from the West India Islands and encourage importations from primary markets. Under a provision of the decree, merchandise shipped from this country destined for Maracaibo, even though accompanied by consular invoices, cannot be transhipped at any of the West India Islands to the port of Maracaibo without paying the additional duty of 30 per cent. This provision affects very injuriously our line of American steamships trading from this port with Laguayra and Peurto Cabello, and through the Island of Curaçoa, with the port of Maracaibo, obliging us to abstain altogether from taking merchandise for the latter port, as owing to the draft of water the steamer cannot cross the bar near Maracaibo. Previous to the promulgation of this decree, the steamers transhipped this cargo at Curaçoa to a branch steamer (built at Philadelphia specially for the trade) drawing only ten to ten and a half feet of water, which is the greatest draft at which a vessel can cross the bar with safety.

What we particularly desire is, that merchandise shipped from this port destined for Maracaibo, when accompanied by consular invoices from the consulate here, shall be allowed transhipment at Curaçoa to our branch steamer trading between those

ports. We see no good reason why this privilege should not be accorded, as the consular invoices (copies of which are sent by the Venezuelan consul to the Department at Caracas) would be sufficient proof that the merchandise was shipped from a primary market, and would in no wise prejudice the object of the decree. European merchandise is thus allowed transhipment to Venezuela from this port.

We respectfully ask the good offices of the Department to secure a modification or more liberal interpretation of this decree, so injurious to American steamship interests.

We may add that none of the European steamship lines trading with Venezuela go there direct. All call at intermediate ports to discharge and load cargo before landing their European cargo at ports in Venezuela.

We remain, &c.,

BOULTON, BLISS & DALLETT,
General Managers Red D line of steamships.

No. 335.

Mr. Frelinghuysen to Mr. Baker.

No. 168.] DEPARTMENT OF STATE,
Washington, July 11, 1882.

SIR: Your dispatch No. 494, of the 19th ultimo, has been received. It relates to the exaction by Venezuela of 30 per cent. additional duty on the cargoes of vessels which may have touched at European colonial ports prior to their entrance into ports of Venezuela. It would be much regretted if your remonstrances against this action, and your proposition for a modification of the charge, should prove abortive.

The measure bears with such severity on the trade between the United States and that country that it is expected you will not lose sight of it, but will on every proper occasion endeavor to have a favorable change effected.

I am, &c.,

FRED'K T. FRELINGHUYSEN.

No. 336.

Mr. Davis to Mr. Baker.

[Extract.]

No. 179.] DEPARTMENT OF STATE,
Washington, August 18, 1882.

SIR: I have to acknowledge the receipt of your dispatch No. 522, of the 31st ultimo, and to approve your representations to the Venezuelan Government in the matter of the additional duty, which the Department would be gratified to learn had been satisfactorily adjusted.

* * * * * * *

I am, &c.,

JOHN DAVIS,
Acting Secretary.

No. 337.

Mr. Baker to Mr. Frelinghuysen.

No. 542.] LEGATION OF THE UNITED STATES,
Caracas, August 29, 1882. (Received September 14.)

SIR: I have the honor to send herewith, as accompaniments, two copies of the Gaceta Oficial, of July 19, 1882, containing a decree of the President, of date September 3, 1881, and a programme for the celebration of the 24th day of July, 1883—the centennial birthday of Bolivar. The decree indicates that all the Spanish-American republics, the Republic of the United States, the French Republic, the Swiss Confederation, Great Britain, and other nations, will be invited to take part in the celebration. Among various other acts of the proposed procedure, I will note that the 31st day of July is set apart—as I translate from the programme—for:

> The inauguration of a monumental statue to George Washington, the father of the great people who founded in the New World the republic which is the model of the Spanish-American nations.

Here is certainly a fine recognition of our Washington and our country. When the matter shall be brought to my attention by the minister of exterior relations I will communicate further in the premises.

I am, &c.,

JEHU BAKER.

No. 338.

Mr. Baker to Mr. Frelinghuysen.

No. 570.] LEGATION OF THE UNITED STATES,
Caracas, October 31, 1882. (Received November 23.)

SIR: Referring to my No. 552, of 17th ultimo, respecting a contemplated interview with the President, with a view of speaking to him about the matter of the custody of ships' papers, &c., I have to say that on the 28th ultimo I had an extended interview with him upon that and other matters. Upon the subject being introduced, he asked what was the reason for the desired change in respect to the custody of ships' papers. I stated, in the first place, that I understood it to be a general practice of the commercial nations of the world to accord the custody of ships' papers to the consuls of the nations to which the ships belonged, and that my information was to the effect that only a few of the Spanish American states offered exceptions to this practice—as far as the commerce of the United States extends. I understood him to indicate in reply that he had an impression that the general practice was as I had stated, but that he did not regard this as the reason that should be given for a change. I then made a statement to the purport that I thought I had received reports from one or more United States consular officers in Venezuela to the effect that in some cases ships' papers had been lost by the local port authorities. I understood him to indicate that he thought this must be erroneous, and that, if it was so, it would be an incidental but not a fundamental reason for a change. I then made a statement to the effect that the comity of nations required that their respective consuls in foreign countries should be the custodians of their respective ships' papers; and that, for a nation to withhold such custody from foreign consuls, whom it had received and recognized as such, carried with it an inappropriate element of suspicion or distrust.

To this the President made answer to the effect that the desire to take the custody of such papers from the customs officers of the country imported a like converse suspicion or distrust. To which I responded, in substance, that I did not regard this view as apposite, for the reason that a nation's consular officers in foreign countries are the natural and appropriate custodians of its ships' papers; that such custody comes within the scope of the consular function.

The result upon the point was that the President suggested, or requested, that I would obtain from my government a statement of the reason why the change in question is desired, in order that he might present it in his next message to Congress, which meets in February. I told him I could do so, but that I thought no other reasons would be forthcoming but those I had given. * * *

I suspect that this last lies at the bottom of the matter, and is the fundamental source of the general usage of nations in according the custody of ships' papers to the resident consular officers of the foreign countries to which the ships belong. I presume a nation, in the exercise of its sovereign powers, has a right, if it sees fit, to require that such papers be deposited with its own customs officers; but it appears to me quite clear, as a general principle, that such action must be regarded as a violation of the proprieties which comity enjoins between friendly nations.

The interview above referred to took place at Antimino, some miles from Caracas, where the President was stopping, not having then resumed his functions, as indeed he has not yet done so. Mr. Seijas, the minister of exterior relations, rode out with me, and was present at the interview. On our way back to Caracas I indicated to him that I should examine the consular reports to which I had alluded in conversation with the President, and bring the accurate state of the matter to his attention. I found upon subsequent examination that my recollection had been quite correct. I found that in a communication from Mr. Plumacher he says:

> It has occurred several times that parts of papers of American vessels have been lost by the custom-house authorities, and the vessels had to leave without them, the officials declaring that they never received them.

And in a communication from Mr. Lacombe I found the statement:

> At this port, the crew list of three of our vessels could not be found on the day of their clearance, and I had to provide them with a new one. I have been informed by the ex-French consul at this port that the same loss of papers had occurred to some French vessels.

On the 27th instant I recalled Mr. Seijas' attention to the matter, read to him the foregoing extracts from the communications of Messrs. Plumacher and Lacombe, indicated to him that they completely authenticated what I had said to the President on the point (to which he appeared to assent), and requested him to inform the President in the premises. He made a memorandum, and said he would do so.

Now as to the practical point of the business. In pursuance of the suggestion or request of the President, I recommend that you furnish me, as soon as practicable, with a statement of the reasons why it is desired by our government that the custody of our ships' papers in the ports of Venezuela should be committed to our consular officers, with direction that I communicate a copy of such statement to the minister of exterior relations of this government. I hope that this course may be the means of bringing about the desired change.

I am, &c.,

JEHU BAKER.

No. 339.

Mr. Baker to Mr. Frelinghuysen.

No. 573.] LEGATION OF THE UNITED STATES,
Caracas, November 7, 1882. (Received November 23.)

SIR: Referring to my No. 553, I have the honor to say that on the 28th of September I had an interview with the President in relation to the 30 per cent. additional duty, and other matters. As respects the additional duty, the practical result was that he was opposed to a change of the law which would allow through invoiced goods to land for reshipment at any of the ports of the islands to shipments from which the 30 per cent. additional duty applies, but expressed himself as inclined to be personally favorable to a change of the law which would allow transhipment of through invoiced goods at the ports of these islands, and indicated that he was considering this point. At this stage I thought it proper to let the matter rest a while. On the 27th ultimo, upon inquiry of Mr. Seijas, I learned that no action had been taken on the point. At an early day I purpose renewing the matter, and urging at least a change that will allow of transhipment, without abandoning the pursuit of a more thorough and efficient change. The President has not yet resumed his functions.

I am, &c.,

JEHU BAKER.

No. 340.

Mr. Frelinghuysen to Mr. Baker.

No. 187.] DEPARTMENT OF STATE,
Washington, November 22, 1882.

SIR: I transmit, herewith, copy of a communication addressed to me by many prominent trading houses of New York, concerning the present discriminating duty of 30 per cent., in addition to the regular tariff charges, which is collected in Venezuelan ports on goods bound thither from the United States, and transhipped while in transit at Curaçoa or any other West Indian port.

The Department's instructions for more than a year past, both to Mr. Carter and to yourself, have shown the lively interest with which this matter is viewed by this government, and the desire felt and repeatedly expressed that a remedy should be urged for a state of things entirely inconsistent with the prosecution of honest commerce and the building up of the intimate commercial relationship between the United States and Venezuela which is so much to the interest of both countries. Your dispatches on the subject have shown a hopeful spirit on the part of the Venezuelan Government that justice might be done in this matter.

It is thought to be self-evident that whatever abuses the revenues of Venezuela may have to fear from irregular channels of trade cannot exist as between that country and the United States in the presence of a wise legislation there, providing that through invoices of shipments, certified by the consuls of Venezuela in the United States, and verified by the like officers in the port of transhipment.

Commerce by way of transhipment and transit is on many routes of international intercourse recognized as an indispensable fact, to be reg-

ulated and facilitated by judicious legislation. A prohibitory measure, like that of which we have so abundant cause to complain, cannot but be injurious alike to the country which thus cuts itself off from profitable, and to that whose export trade is so unreasonably curtailed.

Your last report on the subject intimated that favorable action on the part of the Venezuelan legislature might be near at hand. It seems desirable that you should continue to press the matter on the attention of the executive as well, and ask that its influence be used to induce proper legislation in this respect. There is reason to believe that President Guzman Blanco is favorably disposed to obtain relief in this connection. That he should exhibit such a disposition is only natural, in view of the repeated evidences of friendship and esteem which his government has shown toward ours, and which we have had pleasure in manifesting also in return. It may, therefore, aid toward a final disposal of the question if, in addition to your representations to the minister of foreign relations, you were to avail yourself of any friendly opportunity of conversation with President Guzman Blanco to impress him with the strong desire we feel that this unfair discrimination should be done away with.

I am, &c.,

FRED'K T. FRELINGHUYSEN.

[Inclosure in No. 187.]

D. A. de Lima & Co., Lanman & Kemp, and other New York merchants to Mr. Frelinghuysen.

NEW YORK, *November* 13, 1882.

SIR: The undersigned merchants, established in the city of New York, engaged in the shipping and the sale of American goods for and to the West India Islands and the importation into the United States of South American produce, respectfully call your attention to the great detriment brought to their trade by the differential duties of an additional 30 per cent. levied by the Government of Venezuela on goods imported into Venezuela from said islands.

The proximity of Venezuela to the British island of Trinidad, the Danish island of St. Thomas, and the Dutch island of Curaçoa, had made them, after years of careful work, very valuable points of indirect connection between the United States and Venezuela, through the agency of former residents of those islands who subsequently established in the United States.

By the establishment of the differential duties, the direct trade of the United States with those islands and the indirect trade with Venezuela have suffered material detriment.

Of the several sailing vessels that had been actively running between New York and said islands, scarcely any remain in the line, and steamers that formerly used to go every fortnight with full share of cargo for those ports now hardly get enough freight to pay their continuing in the trade.

While the business between New York and those islands is thus decreasing, the direct trade with Venezuela gets no proportionate increase in any but exclusively American products such as flour, lard, kerosene, &c., or such articles as cannot be got from Europe, because the largest number of houses in Venezuela are European firms which, engaged for years in business with European markets, import from there all other goods, such as cotton fabrics, machineries, agricultural implements, tinware, boots and shoes, candles, soaps, lamps, glassware, perfumeries, plated goods, clocks, watches, books, canned meats, preserved fruits, liquors, matches, jewelries, ropes, blocks, oars, and other ship-chandlery articles, straw paper, writing-paper, envelopes, wires, furniture, trunks, sewing-machines, and scores of other articles which it would be too long to enumerate and in which the United States, in competition with Europe, had, of recent years, established very valuable indirect connection with Venezuela through those islands.

In the like manner, the United States used to export to those islands quantities of East Indian and Chinese goods from bonded warehouses here, such as rice, mattings, fire-crackers, cassia, &c., all of which those islands, through their established trade with the United States and the greater facilities to get the same from here than from

Europe, used to import constantly from here to send to Venezuela. Said articles are now going from Europe to Venezuela.

Further does the trade of New York suffer from the circumstance that a great portion of the Venezuelan products, which formerly were purchased by merchants of those islands for shipment to New York, are now taken by European houses in Venezuela for shipment to Europe, owing to the lack of traffic between those islands and Venezuela.

It may be well to observe that all those detriments which Venezuela is thus causing to the direct trade between itself and the West India Islands and to the commerce of the United States, in the indirect manner above described, are likely to prove ultimately to the disadvantage of Venezuela, as lines of steamers now running between the United States and West Indian Islands, and touching at Venezuelan ports, and which lines were established in connection with the trade of those islands with Venezuela, are likely to seek employment in some combination of trade with New Grenada.

Knowing the great regard in which the government at Washington is deservedly held by the Government of Venezuela, we take the liberty to request the honorable Secretary of State to use his good offices with Venezuela, in order to annul the decree of differential duties on goods imported from the West Indian Islands into Venezuela.

Respectfully.

(Signed by D. A. de Lima & Co., Lanman & Kemp, Foulke & Co., Bartram Bros., Iowa Barb Wire Company, Eugene Kelly & Co., Schultz, Southwick & Co., H. B. Claflin & Co., McKesson & Robbins, Colgate & Co., H. K. & F. B. Thurber & Co., and thirty-eight other firms.)

No. 341.

Mr. Frelinghuysen to Mr. Baker.

No. 190.] DEPARTMENT OF STATE,
Washington, November 29, 1882.

SIR: Your No. 570 of the 31st ultimo has been received. You therein report a conversation had with President Guzman Blanco, on the 28th October, concerning the matter of the custody of ships' papers in the ports of Venezuela, in the course of which the President suggested that you obtain from this government a statement of the reason why a change in this respect is desired by us.

You have yourself already made known to the President several very convincing reasons why the practice in Venezuela of demanding that the custody of ships' papers while in port be confided to the Venezuelan officers is not in consonance with the practice of nations or with commercial interests. Your grounds were good, as far as they went, but the principles underlying the question are broader, and involve the doctrine of reciprocity under treaty and international maritime laws.

In the first place, it is proper that the President should be disabused of any impression he may have formed that the matter is brought up as an innovation. It has for more than fifty years been the occasion of discussion and remonstrance with various nations of Spanish America; and if it be now revived in connection with Venezuela, it is because it seems necessary to the best interests of both countries that an anomalous practice should not exist between them in this respect.

The discussion with Colombia is in point. In 1876 a general movement of the foreign representatives at Bogota was made to secure the abrogation of a law which required the delivery of the papers of foreign vessels to the local port officers. An arrangement then concluded diplomatically set the matter at rest by recognizing the right of the consul of the ship's nationality to have the custody of the ships' papers of their national vessels, and the law has since been repealed.

I transmit, herewith, for your information, copies of two dispatches

from Mr. Dichman, then our minister at Bogota, in which the merits of the demand are forcibly presented. Although the circumstances made the argument somewhat special, as applying to a specific law, and to the peculiar *status* of Colon and Panama as free ports, you will find in these dispatches ample material for fortifying your representations to the Venezuelan Government in the premises. You may, also, profitably consult the remaining correspondence on the subject, found in the volumes of foreign relations for 1875, 1879, and 1880, which are, or should be, in the library of your legation.

It may be convenient to note herein, briefly, a few points to which prominence should be given.

In the first place, the existing rule in Venezuela is deemed to be in contravention of the spirit of perfect equality and reciprocity of commerce and navigation between the two countries, as stipulated in the abrogated treaty of 1836, and as pervading the existing treaty of 1860. The law of the United States, following the usage of most civilized countries, provides that the custody of the papers of foreign ships shall rest with the consuls of their nations, and this because such custody is deemed essential to that consular control over national vessels which is stipulated in all our treaties. It cannot be expected that the United States will unreservedly yield to the authorities of a foreign state a measure of control over our vessels in their ports which is not permitted by our own law to be exercised by our own officers in our own ports, over foreign vessels, except as a retaliatory measure in the absence of reciprocity. In this connection it may be well for you to examine as to the provisions of Venezuelan law touching the custody of the papers of Venezuelan vessels in foreign ports. I make this suggestion because in the discussion of this question with Colombia it was found that the Colombian law was strangely inconsistent in requiring Colombian consuls abroad to take charge of the papers of vessels of their nation, while denying a reciprocal practice to foreign consuls in Colombia. If a like law should be found on the Venezuelan statute books, no stronger argument in our favor could be devised.

You should also, in this relation, call attention to the 26th article of the treaty of 1860, and ask how it is expected that an American consul can *exhibit* the register and crew-roll of an American vessel in proceedings for the arrest of deserters, if at no time he is permitted to have possession of those papers.

In the second place, apart from considerations of reciprocity founded on treaty, the sacredness of the principles of reciprocity as an enduring basis of international intercourse under the law of nations may be forcibly invoked to sustain our position. A vessel, under a civilized flag, on the high seas or in a foreign port, possesses a national life of which its papers are the strongest evidence. They are to all intents a part of the vessel itself. To assume that by the act of entering a friendly port, a vessel is to be stripped of that which is in a large measure essential to the proof of its nationality, and to await the pleasure of a local foreign officer before such part of its life can be restored to it, is inconsistent with international principles and usage. Hence, we find that the custom of nations (with but few exceptions in the Spanish American ports of South America) recognizes the consul of the vessel's nationality as the sole guardian of all national rights appertaining thereto. The exceptions to which I refer (and which are happily growing fewer as the principles of international intercourse are better understood) rest on no broad principle of comity; they violate comity, on the contrary, by asserting a painful spirit of distrust. It is, as Mr. Dichman aptly expresses

it in a dispatch of September 4, 1879 (Foreign Relations, 1880, page 313), much as though it were regarded by the local authorities as a more effective pledge to prevent a ship's leaving a port to have material possession of her register "than if the rudder had been unshipped." The form in which this distrust is expressed, moreover, seems to evidence a misapprehension as to the nature and value of a ship's register. As I have said above, the register is the evidence of the ship's nationality, and as such, with the ship itself, are properly within the continuous jurisdiction of the vessel's nation, and, therefore, in a foreign port, within the jurisdiction of the consul of that nation. I commend to your consideration Mr. Dichman's dispatches No. 62 of March 31, 1879 (Foreign Relations, 1879, p. 280), and No. 133 of September 4, 1879 (Foreign Relations, 1880, p. 312).

In the next place, a conclusive reason for the custody of a ship's papers by the consul of her nation is found in the necessity of preventing frauds against individuals in connection with marine survey, repairs, bottomry bonds, the right of absent owners, &c., and protection of the rights of seamen. It is for these purposes that the legislation of nations provides that the register of a vessel while in port shall pass out of the control of her commander and into the custody of the consul. It is not at all necessary that these diversified rights should be subservient to the local police surveillance while in a foreign port, and yet the rule existing in Venezuela so subordinates them. Moreover, the exercise of these several rights over a vessel for which the laws of her nation make abundant provision is rendered almost impossible by the passage of the papers out of the control of the nation to which the vessel belongs.

Finally, in your conversation with General Guzman Blanco, you have set forth the considerations of convenience which should have weight in determining the question. The loss of important ship's papers while in foreign custody has been only too common an occurrence in the countries where this obnoxious regulation obtains. The correspondence with Colombia shows that this was admitted as a powerful objection to the practice, and you can doubtless adduce examples occurring in Venezuela to strengthen your point. I must compliment you, too, on your aptness in meeting General Guzman Blanco's objection that if any feeling of distrust were shown in this matter, it lay in an endeavor to take from the local officers the custody of a foreign vessel's papers. We do not seek to take from Venezuela a recognized right because we distrust its exercise; we simply wish to retain for our own consuls a right which we deem pertains to them as the representatives of our national sovereignty, and one which is claimed and recognized as just among maritime nations.

I infer from the request of General Guzman Blanco that he is not tenacious, of the point but rather asks for so conclusive a statement of our position as would warrant him in bringing the matter to the consideration of the Venezuelan Congress, with a view to asking such modification of existing law as will put Venezuelan legislation in this respect in harmony with the legislation and usage of maritime countries throughout the world. You will, therefore, in presenting to him a succinct memorandum founded on this dispatch, set the question forth on its merits, as aiming to facilitate a needed reform rather than as aggressively combating an assumed intent to adhere to an obnoxious system.

I am, &c.,

FRED'K T. FRELINGHUYSEN.

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